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Bangladesh

Assessment of Bangladesh Public Procurement System

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Governance Global Practice

South Asia Region



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ACRONYMS

AA	Approving Authority
ACC	Anti-Corruption Commission
ADB	Asian Development Bank
ADP	Annual Development Program
APP	Annual Procurement Plan
BDT	Bangladesh Taka
BIGD	BRAC Institute of Governance and Development
BIM	Bangladesh Institute of Management
BOQ	Bill of Quantity
BPPA	Bangladesh Public Procurement Authority
BREB	Bangladesh Rural Electrification Board
BRAC	Bangladesh Rural Advancement Committee
BWDB	Bangladesh Water Development Board
CAG	Comptroller and Auditor General
CAO	Chief Accounts Officer
CCGP	Cabinet Committee on Government Purchase
CE	Chief Engineer
CIPS	Chartered Institute of Procurement and Supply
CMSD	Central Medical Store Depot
COI	Conflict of Interest
CPI	Corruption Perceptions Index (of Transparency International)
CPAR	Country Procurement Assessment Report
CPTU	Central Procurement Technical Unit
CSO	Civil Society Organization
CSOS	Community Service Organization Selection
DIMAPPP	Digitizing Implementation Monitoring and Public Procurement Project
DFID	Department for International Development
DOFP	Delegation of Financial Power
DP	Development Partner
DPE	Directorate of Primary Education
DPP	Development Project Proposal
DPHE	Department of Public Health Engineering
DPM	Direct Procurement Method
e-CMS	Electronic Contract Management System
ECNEC	Executive Committee of National Economic Council
e-GP	Electronic Government Procurement

EOI	Expression of Interest
ESCB	Engineering Staff College Bangladesh
FAPAD	Foreign Aided Project Audit Directorate
FBS	Fixed Budget Selection
FIMA	Financial Management Academy
FMIS	Financial Management Information System
FYP	Five Year Plan
G2G	Government to Government
GDP	Gross Domestic Product
GFR	General Financial Rules
GNI	Gross National Income
GPA	Agreement on Government Procurement
GoB	Government of Bangladesh
GCC	General Condition of Contract
HOPE	Head of the Procuring Entity synonymously used as Head of the Procuring Agency
iBAS	Integrated Budget and Accounting System
ICB	International Competitive Bidding
ICS	Individual Consultant Selection
IFT/IFB	Invitation to Tender/Bid
IMED	Implementation Monitoring and Evaluation Division
ITC-ILO	International Training Centre-International Labour Organization
JICA	Japan International Cooperation Agency
KPI	Key Performance Indicator
LC	Letter of Credit
LCS	Least Cost Selection
LD	Liquidated Damage
LGED	Local Government Engineering Department
LTM	Limited Tendering Method
MAPS	Methodology for Assessment Procurement Systems
MDB	Multilateral Development Bank
MOF	Ministry of Finance
MOP	Ministry of Planning
MOPA	Ministry of Public Administration
MTBF	Mid Term Budgetary Framework
NAPD	National Academy for Planning & Development
NCB	National Competitive Bidding
NGO	Non-Government Organization

NOA	Notification of Award
OECD	Organization for Economic Co-operation and Development
OTM	Open Tendering Method
PAC	Public Accounts Committee
PCC	Particular Condition of Contract
PD	Project Director
PE	Procuring Entity
PEDP	Primary Education Development Program
PEFA	Public Expenditure and Financial Accountability (Assessment)
PFM	Public Financial Management
PMU	Project Management Unit
PPA	Public Procurement Act 2006, as amended
PPR	Public Procurement Rules 2008, as amended
PPRP	Public Procurement Reform Project
PPSC	Public Private Stakeholders Committee
PROMIS	Procurement Management Information System
PWD	Public Works Department
QCBS	Quality and Cost Based Selection
RADP	Revised Annual Development Program
RDPP	Revised Development Project Proposal
RFQM	Request for Quotation Method
RP	Review Panel
RHD	Roads and Highways Department
RTI	Right to Information
SAFTA	South Asia Free Trade Agreement
SPSO	Selected Public Sector Organizations
SRFA	Standard Request for Application
SRFP	Standard Request for Proposal
STD	Standard Tender Document
TEC/BEC	Tender/Bid Evaluation Committee
TOC/BOC	Tender/Bid Opening Committee
TIB	Transparency International Bangladesh
UNCITRAL	United Nations Commission on International Trade Law
UNCAC	United Nations Convention on Anti-Corruption
USAID	United States Agency for International Development
WTO	World Trade Organization

EXECUTIVE SUMMARY

Background:

1. Bangladesh has enjoyed relatively high and stable growth over the last two decades, accompanied by rapid poverty reduction. Gross domestic product (GDP) growth averaged close to 6 percent annually since 2000 and, according to official estimates, accelerated to over 8 percent in FY19. The poverty rate dropped from 44.2 percent in 1991 to 14.8 percent in 2016. With per capita gross national income (Atlas method) at \$1,954 in 2019, Bangladesh has moved into lower middle-income country status since 2015.
2. The Government of Bangladesh (GOB)'s Vision 2021 aims to propel the country into middle-income status and further reduce poverty. The most recent five-year plan (FYP16-20) focusses on productive employment for the growing labour force and a substantial increase in investment. Other key elements of the plan are to ensure good governance and pursue for an environmentally sustainable and socially inclusive development process.
3. The country's spending in public procurement was estimated to US\$ 24 billion in FY19, representing 45.2% of the annual budget and 8% of GDP. Public procurement also represented 85% of the Annual Development Program (ADP) in FY19. Therefore, any improvement in the public procurement system is likely to have a significant financial effect.
4. Bangladesh has been making continued efforts for over a decade to bring a systemic change to its public procurement system. Following the recommendations of the Country Procurement Assessment Report 2002 (CPAR 2002), the GoB implemented two procurement reform projects with the technical and financial support from the World Bank and is currently implementing the third reform project. A robust public procurement system has been established including procurement law, secondary legislation and associated standard bidding documents. A nodal agency, the Central Procurement Technical Unit (CPTU), under the Implementation Monitoring and Evaluation Division (IMED) of the Ministry of Planning, has been established. An extensive capacity development program has been institutionalized and has trained over 37,000 stakeholders from 2008 to 2019, mostly procurement officials and bidders. A comprehensive electronic government procurement (e-GP) portal has brought the entire procurement process online.
5. Progress is happening and still more needs to be done. In order to guide the progress, a thorough study was needed. Past assessments like the PEFA of 2010 and 2016 and e-GP assessment of 2017 offered some information but did not cover the entire spectrum of the public procurement system. Besides, the GoB has made a series of amendments to its legal framework since 2009 which have not yet been formally assessed against any internationally accepted benchmark. Further amendments to the legal framework are also under consideration by the GoB, providing an opportune moment to conduct a comprehensive system assessment to inform the development process.

Objectives of the Study:

6. The key objectives of the assessment were to – (i) establish a shared understanding of the current state of Bangladesh public procurement system amongst all stakeholders; (ii) identify the strengths and weaknesses of the overall public procurement system and formulate appropriate mitigation measures for the identified gaps; and (iii) develop action plan for future system development in achieving a modern and harmonized procurement system with particular reference to enhanced e-GP, contract management, sustainable procurement, and citizen engagement.

Methodology:

7. Bangladesh public procurement system was assessed following the universally accepted Methodology for Assessing Procurement System (MAPS)¹. The assessment was conducted across all four pillars of MAPS - (i) legal, regulatory and policy framework; (ii) institutional framework and management capacity; (iii) procurement operations and market practices; and (iv) accountability, integrity and transparency.
8. The study was carried out by the World Bank’s team in close coordination with the GoB. The Government formed a MAPS committee with the leadership of CPTU and comprising representatives from all key stakeholder groups. GoB MAPS committee facilitated data collection and identification of the key stakeholders for the interviews, and also provided valuable inputs on MAPS indicators. The assessment team reviewed the current procurement laws, guidelines, procurement processes, standard documents, other relevant laws, national statistics, development plans, analytical and diagnostic works done in the country etc. Data collection took a number of forms – (i) 297,000 procurement packages’ electronic data collected from the e-GP system; (ii) 12,000 paper-based (non e-GP) procurement packages’ data collected under a parallel study on e-GP impact evaluation; and (iii) interviews and focus group discussions with the key implementing agencies including field level procuring entities, other important stakeholders within government, development partners, civil society organizations, professional associations, leading universities, and other business and bidding communities. In-addition, bidder surveys were also conducted in five districts of Bangladesh.
9. The assessment findings and recommendations were shared with the GoB MAPS committee and their feedback were incorporated in the report. In addition, the findings and recommendations were validated through a national consultation workshop participated by over 140 representatives from the government, implementing agencies, development partners, academia, civil society organizations, procurement professionals, professional associations, private firms, and other business and bidding communities. Stakeholders unanimously agreed to the MAPS findings and recommended solutions.

¹ MAPS assessment methodology and indicators can be found at the website: www.mapsinitiative.org

Major Strengths of the System:

10. The public procurement system in Bangladesh is governed by a single legal framework composed of Public Procurement Act 2006 (PPA 2006) and secondary legislation, Public Procurement Rules 2008 (PPR 2008); covering a nodal policy unit, standard procurement documents (SPDs) and a functional complaint redress system with an independent appeal mechanism. Central Procurement Technical Unit (CPTU) is the nodal procurement policy unit which has a widely used, freely accessible and regularly updated website providing all procurement related information, policy and functional documents including SPDs.
11. CPTU manages the centralized national electronic government procurement (e-GP) system that covers the entire cycle of procurement starting from procurement planning to payment processing including online bid document preparation and submission, electronic bid security, bid evaluation and approval, contract management and payment. In FY19, US\$ 15 billion worth of procurement contracts representing 62% of public procurement expenditure in the country were processed through the e-GP system. As of FY19, 1,325 out of 1,362 public organizations in Bangladesh and 65,559 bidders have been registered in the e-GP system. The e-GP system is governed by a comprehensive e-GP guideline clearly establishing the security aspects of the system, responsibility of e-GP users at different levels, operation and maintenance protocols of the system, copyright, registration process etc. CPTU through an outsourced firm manages a e-GP help desk with 24X7 functionality.

Box-1: Impact of e-GP System

- Publication of 100% of procurement notices and contract award information
- Average procurement lead time² (invitation to contract signing) for all tenders decreased by 28% - 86.7 days (FY12) to 62.2 days (FY19)
- Percentage share of awarded bids within original bid validity period increased from 10% (FY07) to 90% (FY19)
- Percentage share of rejected bids decreased from 8% (FY12) to 3% (FY19)
- Estimated US\$ 600 million savings in between FY12 and FY18
- Improved market access and bidding environment compared to manual bidding

² Average lead time includes all procurement methods irrespective of the value (excluding direct procurement and quotation methods). Average lead time for high value contracts (>US\$ 12million) is 270 days.

12. Availability of an array of procurement methods including multi-stage procedures (pre-qualification, two stage tendering method) for large and complex procurement. Open Tendering Method (OTM) is the preferred method and alternative methods need justification. 80% of goods and works contracts were processed through OTM in FY19. Bidders from all countries across the world³ are eligible to participate in the procurement process including national competitive bidding.
13. CPTU has a clear mandate to carry out public procurement reforms and monitor procurement performance across the country. Institutionalized procurement capacity building program is in place, supported by large procuring agencies with well-defined procurement functions. Integrated budget and accounting system (iBAS ++) system is in place and helps budget control and management. Average days for payment to the contractors is mostly within acceptable limit. (Survey result: 77% responded bidders received payment within 30 days of bill submission)
14. Private sector is vibrant and competitive. Average number of participants in a procurement process was 16 in FY19 considering all procurement methods. Access to information in the public procurement process is adequate with 100% of procurement notices published in freely accessible printed media and web portals.
15. Citizen engagement in contract implementation monitoring is happening in 48 sub-districts with positive feedback. CPTU has recently developed and soft launched a citizen portal to disseminate procurement and contract management data following the Open Contracting Data Standard (OCDS). The portal has facilities for data analytics based on key performance indicators.
16. Financial audits are carried out regularly. A strong anticorruption system is in place, with presence of ethical standard in audits and public procurement (code of ethics) and national integrity strategy.

Major Weaknesses and Possible Solutions:

17. Use of price cap in national Open Tendering Method (OTM) for works (rejecting bids more than 10% below or above the estimated cost), in lieu of the intended objective of improved quality and timely completion of works, resulted in market distortion. For example, (i) the average number of participants per procurement package decreasing from 4.2 to 2; (ii) single tenders in OTM packages increasing from 20% to 50% and (iii) large bidders monopolizing the procurement market and small bidders getting marginalized. Possible solutions would be to – (i) remove \pm 10% cap from the Open Tendering Method (NCT) for works; and (ii) undertake alternative solutions (provided in the Chapter 4 of this report) to tackle the issue of abnormally low bids.

³ Excluding country(s) with whom Bangladesh has no commercial relationship or sanctioned by the UN Security Council

18. The Limited Tendering Method (LTM) for national works procurement, targeted to encourage small and new bidders with provisions such as price cap, lottery to determine the winner in the case of tied bids and not requiring any past experience, is not consistent with international good procurement practices, and resulted in failed constructions, delays and cost-overruns. These provisions were introduced in the PPA through 2009 amendment to encourage development of small and new bidders. Bidders' interviews revealed that most of the new and small bidders are not getting the intended advantage as the large bidders can also participate in the procurement process. Possible solutions would be to – (i) remove \pm 5% cap and lottery from Limited Tendering Method; (ii) assess how Limited Tendering Method can be used to give preferential treatment to small and medium bidders/enterprises, women-led enterprises and start-ups; (iii) update PPA/PPR to include provisions for promoting SMEs, women-led enterprises and start-ups; (iv) create a supplier/contractor database with unique identification of bidders and their beneficial owners to track performance of the suppliers/contractors including specialized groups; and (v) introduce suppliers/contractors' development program.
19. The sanction/debarment process lacks independent review (decision by the head of the procuring entity is final) except by way of appeal to the judiciary. Procuring agencies are inconsistently implementing the provision of debarment in-terms of duration and extent of debarment. Possible solutions would be to – (i) introduce independent debarment process with provision of temporary suspension by the HOPE; and (ii) prepare detailed guidelines on debarment procedures including protocol for sharing and receiving feedback on fraud and corruption issues from the Anti-Corruption Commission (ACC).
20. Bangladesh has a national policy and strategy for sustainable development which the country has been pursuing for long time. However, sustainable public procurement has not yet found its way into the public procurement legislation and practices to give targeted development opportunities to SMEs, start-ups, women-led enterprises, giving preferential treatment to high quality goods/works including energy efficient/low carbon emitting/sustainable goods and works etc. Preparation of a policy document with detailed implementation road map is recommended for implementation of sustainable procurement.
21. CPTU has restrained capacity due to its legal structure, lack-of autonomy in decision making, limited staffing, inadequate analytical/ research capability, and significant outsourcing to external experts and firms. This is inadequate to regulate and monitor public procurement for more than 1300 organizations and meet the continuously increasing demand for e-GP services. Conversion of CPTU to the proposed Bangladesh Public Procurement Authority (BPPA) with enhanced authority and autonomy is under process. Proposed BPPA Act has been drafted with wide consultation, which is now going through the GoB review process. However, it needs to be fast-tracked to prioritize formation of the proposed Bangladesh Public Procurement Authority (BPPA), develop in-house institutional and technical capacity of BPPA (with a set of qualified, experienced and adequate number of trained officials), and gradual lessening of dependency on external support.

22. Approval of large value procurements' bid evaluation reports at levels higher than procuring agencies, require 45-60 days from the date of receipt of the bid evaluation report from the procuring agency. This causes delay in implementation of development projects. While, numerous commonly required recurring procurements like medicines, vaccines, medical consumables, stationery, computers and accessories (printer, toner etc.), office equipment, etc. result in huge transaction efforts and costs. Possible solutions would be to – (i) increase procurement approval thresholds at the agency and ministry level with enhanced accountability mechanism; (ii) increase use of framework agreements; and (iii) create provisions for electronic catalogues/ e-market place.
23. Most of the contracts (70%) are not completed on time causing delay and cost overrun, and compromise in achieving value-for-money. Lack of strategic procurement planning and analysis result in higher procurement cost, lower procurement performance and failure of bidding process resulting rebidding. Possible solutions would be to – (i) roll out newly developed electronic contract management (e-CMS) module of e-GP and monitor contract management performance; (ii) scale up citizen monitoring of contract implementation; (iii) undertake capacity development program on contract management; and (iv) strategic procurement analysis and planning at the organization/sectoral level.
24. Proper integration of procurement system with the integrated budget and accounting system (iBAS ++) is yet to take place resulting-in disconnect between the procurement value with the budget and real expenditure. Interconnection in between e-GP and iBAS++ need be prioritized to facilitate real time capturing of budget utilization, procurement commitment and procurement expenditure data, and monitoring and tracking of payment.
25. Audit system is mostly external and internal control system is virtually absent including procurement performance audits. There is no system to electronically capture and track audit observations and their resolutions. Potential solutions would be to – (i) introduce standardized mechanism for internal control with the development of internal audit manual and module for training; (ii) carry out specialized procurement audits/procurement performance audits/procurement post reviews especially in large agencies based on periodic risk assessments; and (iii) introduce electronic mechanism for capturing audit data and resolution status.
26. Procuring entities do not record information about complaints and their resolutions systematically. Procurement complaint system is lengthy and takes 2-3 months' time to exhaust the entire process. Inadequate monitoring of integrity issue in public procurement - no national statistics available on corrupt activities specific to procurement. Potential solutions would be to – (i) enhance e-GP's complaint handling module with facilities to track complaints and their resolution status; (ii) reduce 4-tier complaint handling process to 2-tier process consisting review only at the procuring entity and review panel levels; (iii) include provision to earmark corruption related to public procurement in ACC database; and (iv)

introduce integrity module in e-GP (automatic identification of red flags during bid evaluation).

Recommendations and Strategic Approach:

27. A set of recommendations is provided in the Chapter 4 (Consolidated Recommendations) of the report. The approach is to continue gradual improvement to the existing procurement regime by a set of actions that are feasible and practical. These actions are prioritized from the point of view of the impact and degree of readiness of the current system. The agreed recommendations need to be converted to a detailed action plan identifying the required resources, sources of funding, specific time frame for each action etc. GoB has already initiated implementation of a number of recommended actions under the ongoing Digitizing Implementation Monitoring and Public Procurement (DIMAPP) Project funded by the World Bank. The GoB has also requested the World Bank for US\$ 40 million of additional financing for the DIMAPP project to implement priority MAPS recommended actions. This proposed technical assistance credit is now under preparation and planned to be delivered in FY21.

1. INTRODUCTION

1.1 Background

Bangladesh has been making continued efforts for over a decade to bring a systemic change to its public procurement system. Following the recommendations of the Country Procurement Assessment Report 2002 (CPAR 2002), the Government of Bangladesh implemented two procurement reform projects with the technical and financial support of the World Bank and is currently implementing the third phase of the reform project. As a result of these initiatives, earlier procurement assessments⁴ have indicated that the country at present has a robust public procurement system in place which includes a procurement law, secondary legislation and associated standard bidding documentation, a well-functioning nodal agency, the Central Procurement Technical Unit (CPTU), under the Implementation Monitoring and Evaluation Division (IMED) of the Ministry of Planning (MOP) to regulate public procurement, an extensive capacity development program, a comprehensive electronic government procurement (e-GP) portal with online procurement performance measurement mechanism, and a citizen engagement system supported by a comprehensive strategic and behavioral change communication program.

Nevertheless, these procurement assessments are either out of date (the World Bank's CPAR of 2002) or not comprehensive enough (PEFA⁵ of 2010 and 2016; e-GP assessment of 2017) by not comparing the entire spectrum of the public procurement system with international good practices and standards. Besides, GoB has made a series of amendments to its legal framework since 2009 which have not yet been formally assessed against any internationally accepted benchmark. Further amendments to the legal framework are also now under consideration by the GoB, providing an opportune moment to conduct a new and comprehensive system assessment to inform that system development process.

It is expected that an assessment of the country's procurement system using the universally accepted Methodology for Assessing Procurement System (MAPS) will benefit the country by indicating how it may ensure value for money and better service delivery through an improved public procurement system. It is relevant to mention that a good public procurement system directly contributes to the proper utilization of the invested resources and thereby impact on the country's economic growth. Increasing the effectiveness and efficiency in the use of public resources through a good procurement system is also an important factor for improving the investment climate, accelerating growth and reducing poverty.

In addition, most of the development partners working in Bangladesh, including the Bank, are increasingly relying on the country procurement system through engagement in the Program for Results (PforR) modality of financing. This paradigm shift in the financing modality has created a demand for a comprehensive diagnostic of the country's public procurement system including

⁴ Earlier Assessments: Assessment of Implementation of Public Procurement Regulations, 2009; Public Expenditure and Financial Accountability (PEFA) Performance Assessment for Bangladesh, 2010 and 2016; Developing Strategic Framework for Public Procurement Authority, 2017.

⁵ PEFA: Public Expenditure and Financial Accountability performance assessment for Bangladesh, 2010 and 2015.

identification of the risks of relying on the country system and the corresponding system improvements to minimize the risks.

1.2 Methodology

The Bangladesh public procurement system was assessed following the harmonized Methodology for Assessing Procurement System (MAPS)⁶. This was done using the core MAPS tool only. The assessment was conducted on all four pillars of MAPS, i.e., (i) legal, regulatory and policy framework; (ii) institutional framework and management capacity; (iii) procurement operations and market practices; and (iv) accountability, integrity and transparency. Particular focus was given to e-GP and its enhancement, contract management, sustainable procurement and citizen engagement.

The key objectives of the assessment were to:

1. take stock of the reform initiatives to date, including the most recent amendments to the legal framework in order to establish a shared understanding of the current state of the Bangladesh public procurement system amongst all stakeholders (including government agencies, development partners, civil societies and private sector).
2. conduct a gap analysis to identify the strengths and weaknesses of the overall public procurement system so as to (i) inform and support the current work being undertaken by GoB to amend the relevant legal framework and (ii) assess the risks that the remaining weaknesses of the system pose to the use of public funds and to formulate appropriate mitigation measures, if any, and
3. develop a strategy for future system development in achieving a modern and harmonized procurement system with particular reference to enhanced e-GP, contract management, the introduction of sustainable procurement, and citizen engagement.

Study team and stakeholders: The study was carried out by the Bank's team for the MAPS assessment in close coordination with the Government of Bangladesh (GoB). Bank's MAPS team comprised of multidisciplinary team of experts (Bank staff and consultants) having extensive experience in conducting similar assessments. GoB MAPS Committee chaired by the Director General, CPTU was established to work with the Bank's team responsible for the assessment. The team represented the entire spectrum of key government organizations including, inter alia Local Government Engineering Department (LGED), Roads and Highways Department (RHD), Bangladesh Water Development Board (BWDB), Bangladesh Rural Electrification Board (BREB), Central Medical Stores Depot (CMSD), Directorate General of Family Planning (DGFP), Directorate of Primary Education (DPE), National Curriculum & Textbook Board (NCTB), Comptroller and Auditor General (C&AG), Controller General of Accounts (CGA), Anti-Corruption Commission (ACC), Public Private Partnership Authority (PPPA) etc. GoB MAPS committee facilitated data

⁶MAPS assessment methodology and indicators can be found at the website: www.mapsinitiative.org

collection and identification of the key stakeholders for the interviews, and also provided valuable inputs on MAPS indicators.

As part of the stakeholder consultation, technical inputs of the other development partners active in the country, for example, Asian Development Bank (ADB), Islamic Development Bank (IsDB), the United Kingdom Department of International Development (DFID), Japan International Cooperation Agency (JICA), European Commission and United States Agency for International Development (USAID) were also be collected. In addition, other important stakeholders like the civil society organizations (e.g., BRAC Institute of Governance and Development - BIGD, Transparency International Bangladesh -TIB), professional associations and the chamber of commerce, leading universities, bidding communities and other private sector bodies were also consulted.

Target agencies: The assessment mainly covered the following sectoral agencies responsible for implementing the lion's share of the country's development program: Local Government Engineering Department (LGED), Roads and Highways Department (RHD), Bangladesh Water Development Board (BWDB), Bangladesh Rural Electrification Board (BREB), Central Medical Stores Depot (CMSD), Education Engineering Department (EED), Department of Public Health Engineering (DPHE), Public Works Department (PWD), Bangladesh Power Development Board (BPDB)etc. These agencies comprise thousands of procuring entities at all levels of the government from central to local levels and represent about 72% of all public procurement in the country. In addition, a number of key procurement practitioners from other implementing agencies conducting significant amount of procurements were also consulted through interviews/focus group discussions.

Data collection: Data collection took a number of forms. The national e-GP system was one of the main sources of data. It had data for the entire cycle of procurement (unto contract signing) of 297,000 procurement packages processed in between 2012 and June 2019. e-GP data covered 1325 public organizations including government, semi-government, statutory organization created under law and state owned enterprises with 8,668 Procuring Entities (units and offices under the organizations) and 65,559 bidders registered in the system. Data collected under a parallel study for e-GP impact evaluation⁷ was also taken into consideration. The IE collected data for the entire cycle of procurement (including contract management and payment) for 12,000 paper-based (non e-GP) and 600 e-GP procurement packages. These data were collected from all 64 districts of the country covering about 20% of the paper-based procurement contracts processed in LGED, RHD and BWDB during FY12-FY16. Data were also collected from the procurement post review reports of the World Bank. In addition to the hard data, the assessment team also conducted interviews and focus group discussions with the key implementing agencies including field level procuring officials, other important stakeholders within government, civil society organizations, professional associations, leading universities, and other business and bidding communities. Bidder surveys were also conducted in five districts of Bangladesh. In

⁷ The World Bank is leading this impact evaluation in collaboration with the GoB

addition, relevant past studies, legal and other relevant documents were also reviewed. The full list of the documents reviewed is contained in Appendix 2 of Volume III.

Assessment phases: The assessment took place from May 2018 to August 2019. There were three key phases in the assessment:

1. Initiating Phase which included:

- a. identifying and informing all stakeholders of the study;
- b. establishing the Task Team, including hiring the team of experts including a team leader to coordinate the study;
- c. establishing the MAPS Committee
- d. preparing the concept note and detailed methodology of the study, including defining the timeline, identifying sources of hard data collection; field visits, interviews and surveys and establishing lines of communication between team members and
- e. Identifying the sources of information and collection of documents for the study.

2. Assessment Phase which included:

- a. conducting the initial desk review of procurement laws, rules and processes;
- b. preparation of pre-assessment questionnaires based on MAPS sample;
- c. conducting a detailed field review of the public procurement system covering identified key agencies;
- d. compiling and analysing field-level data;
- e. collection and analysis of hard data along with data generated from the e-GP system;
- f. preparing draft procurement assessment report, including summary of identified risks and issues along with a risk mitigation action plan, recommendations for system development and strategic recommendations.

3. Validation Phase which included

- a. sharing the draft report with government counterpart and other stakeholders for comments;
- b. organizing workshops to discuss the draft report;
- c. securing internal approvals;
- d. finalizing the report in consultation with the government;
- e. publishing and disseminating findings and
- f. liaising with counterparts for implementation of final report, action plan, results indicators and ongoing monitoring of results.

2. ANALYSIS OF COUNTRY CONTEXT

2.1 Political, socio-economic and geostrategic situation of the country

Bangladesh is one of the world's most densely populated countries with an estimated 168 million⁸ people residing in a geographical area of approximately square kilometers⁹. About 35 percent¹⁰ of Bangladesh's population resides in urban areas. The population is packed into a delta of rivers that flows into the Bay of Bengal. It is vulnerable to floods, tropical cyclones, earthquakes and stands to be badly affected by climate change, notably due to rises in sea level. It shares land borders with India and Myanmar.

Bangladesh's economy has proven to be remarkably resilient and progressed well beyond expectations since its independence in 1971. It is now amongst the five fastest growing economies of the world, despite insufficient private sector investment¹¹. Having the world's second-lowest per capita income in 1975, the country has sustained accelerating growth and made excellent progress in human development. Bangladesh's GNI per capita has grown more than fifteenfold, from around US\$120 in 1972 to US\$1,954 in 2019¹². Progress on reducing extreme poverty and boosting shared prosperity through human development and employment generation has continued. Considering the international poverty line of US\$1.90 per person per day, it has been able to reduce poverty from 44.2 percent in 1991 to 14.8 percent¹³ in 2016 and in between this period, the number of people in poverty fell from 46.7 million in 1991 to 23.4 million people in 2017¹⁴. The country has been able to sustain accelerating its GDP growth with an average of 6.4 percent since 2010. GDP growth rate reached 8.1 percent¹⁵ in 2019. Steady increase and sustained GDP growth enabled Bangladesh to achieve the lower middle-income country status in 2015. All three eligibility criteria for graduation from the UN's LDC list have been fulfilled by Bangladesh in 2018 and the country is on track for graduation in 2024¹⁶.

Manufacturing—particularly ready-made garment (RMG) exports and construction have been major drivers of the recent economic growth. The country has experienced a profound social transformation with the influx of girls into the education system and women into the labor force. In the World Bank's Human Capital Index 2018, Bangladesh has performed better than the South Asian and lower middle-income average in the education and health indicators, with the exception of stunting.

⁸ United Nations Population Division. World Population Prospects: 2019 Revision.

⁹ United Nations Statistics Division, Bangladesh Bureau of Statistics

¹⁰ United Nations Population Division. World Urbanization Prospects: 2018 Revision.

¹¹ Bangladesh Development Update: Regulatory Predictability Can Sustain High Growth, The World Bank, 4 April 2019.

¹² World Bank national accounts data, and OECD National Accounts data

¹³ World Bank, Development Research Group. Data are based on primary household survey data obtained from government statistical agencies and World Bank country departments. For more information and methodology, please see PovcalNet (<http://iresearch.worldbank.org/PovcalNet/index.htm>)

¹⁴ Bangladesh country overview, The World Bank, Last updated on 27 March 2019 (<https://www.worldbank.org/en/country/Bangladesh/overview>)

¹⁵ World Bank national accounts data, and OECD National Accounts data

¹⁶ *Ibid*

Despite robust growth, the pace of poverty reduction has slowed down, especially in urban areas. With rapid urbanization, the absolute number of urban poor has increased in 2016 compared to 2010. The welfare gap between eastern and western Bangladesh has also re-emerged, correlated with different rates of progress in demographic change and educational attainment, as well as slower agricultural growth. The pace of job creation in the formal sector also slowed down. Total employment grew only by 1.8 percent between 2011 to 2016, compared with 3.1 percent per year between 2003 and 2010. Key structural reforms are needed to sustain the growth momentum and improve inclusiveness of growth. With RMG constituting 84 percent of total exports, it will be critical for Bangladesh to diversify its export base. Additionally, reforms are needed to improve infrastructure and connectivity, enhance access to credit, improve human capital, boost agricultural productivity and simplify business regulations.

Bangladesh's economy was able to tackle global uncertainties well and sustained the economic growth. However, inflation has showed a slow acceleration and reached to 5.8 percent¹⁷ in the first half of FY18 because of a price hike in food commodities and a supply shock. Households in urban areas might have been impacted by flat garment export growth and rising of such food prices. The exchange rate depreciated 6.5 percent between January 2017 and March 2018 with the emergence of excess demand in the foreign exchange market as the overall balance of payments was in deficit for the first time since FY11, driven by a large rise in the current account deficit. Public debt has been stable, at around 33 percent of GDP. Bangladesh's foreign exchange reserve is around US\$ 32 billion.¹⁸ The table given below shows the change of different economic indicators of Bangladesh vis-à-vis South Asian countries and Lower Middle-Income countries.

Table 2.1: Social Indicators for Bangladesh and Comparators

Indicator	Years	Bangladesh		South Asia		Lower middle income countries	
Life expectancy (years) at birth ¹⁹	1971-2017	46.59	72.05	48.62	69.17	50.86	68.32
Infant mortality rate (per 1,000 live births) ²⁰	1990-2018	99.60	25.10	91.80	34.50	84.30	36.90
Total fertility rate ²¹	1971-2017	6.94	2.06	5.74	2.41	5.72	2.74
School enrolment, primary (% gross) ²²	1971-2018	52.05	116.47	72.10	110.64	75.50	105.47
School enrolment, secondary (% gross) ²³	1973-2017	20.76	72.69	24.02	69.30	27.10	68.38
Immunization, DPT (% of children ages 12-23 months) ²⁴	1981-2018	1.0	98.0	5.86	86.83	9.75	82.27

¹⁷ Bangladesh Bank data

¹⁸ Bangladesh Bank data

¹⁹ United Nations Population Division Data

²⁰ Estimates developed by the UN Inter-agency Group for Child Mortality Estimation (UNICEF, WHO, World Bank, UN DESA Population Division)

²¹ United Nations Population Division Data

²² UNESCO Institute for Statistics (Education Indicators)

²³ UNESCO Institute for Statistics (Education Indicators)

²⁴ WHO and UNICEF (http://www.who.int/immunization/monitoring_surveillance/en/)

Indicator	Years	Bangladesh		South Asia		Lower middle income countries	
Mobile cellular subscription (per 100) ²⁵	2001-2018	0.40	97.28	0.60	86.78	1.91	94.46
Fixed broadband subscriptions (per 100 people) ²⁶	2007-2018	0.03	6.33	0.211	1.80	0.32	2.60
GDP per capita (current US\$) ²⁷	1971-2018	133.5	1698.2	124.8	1902.8	145.1	2217.1
GDP growth rate ²⁸	2018	7.86		6.77		5.94	
GNI per capita, Atlas method (current US\$) ²⁹	1986-2018	120	1750	142.3	1923.2	176.1	2242.0

Bangladesh has experienced different forms of government since its independence. It returned to electoral democracy in 1991 after the fall of an autocratic government. After that, two leading parties – the Bangladesh Awami League and Bangladesh Nationalist Party have mostly rotated power. The Bangladesh Awami League has been in the power since 2008. They won the 3rd consecutive elections in 2019. Ruling parties have generally exhibited strong commitments to the country’s long-term development agenda.

Bangladesh is a unitary state although administratively it is divided into eight administrative ‘Divisions’ named after the major city within its jurisdiction that serves as its administrative capital. Dhaka is the capital of the country. Policy formulation and monitoring of implementation is carried out at the central level through the ministries and the divisions which together form the Bangladesh secretariat. General administration, delivery of public services and implementation of development programs are carried out both at the central and subnational level (districts and upazilas or sub-districts) as well as by the line directorates and attached offices of the ministries/divisions.

While the political head and chief executive of ministry is a minister or a state minister, the administrative head and principal accounting officer responsible for managing the ministry/division’s tasks is the secretary. Currently, there are as many as 54 ministries/divisions across the government. In addition, there are several constitutional offices in the public sector like the president’s office, national parliament, supreme court, election commission, public service commission, and office of the comptroller and auditor general which work independently. At present, there are 205 directorates and attached offices under various ministries/divisions. Offices differ greatly in terms of size and status.

Local government has different tiers and includes a large network of local government institutions. For example, city corporations and pourashavas (municipalities) at the urban level, district councils, upazila parishads and the union parishad at the lowest tier. There are 12 city

²⁵ Bangladesh Telecommunication Regulatory Commission, International Telecommunication Union, World Telecommunication/ICT Development Report and database.

²⁶ Bangladesh Telecommunication Regulatory Commission, International Telecommunication Union, World Telecommunication/ICT Development Report and database.

²⁷ World Bank national accounts data, and OECD National Accounts data

²⁸ World Bank national accounts data, and OECD National Accounts data

²⁹ World Bank national accounts data, and OECD National Accounts data

corporations, 327 municipalities (pourashavas), 64 district councils (zilla parishads), 492 upazila parishads and 4,554 union parishads. The public sector absorbs a significant part of the workforce in the country.

In addition, there are as many as 203 state-owned enterprises (SOEs) and statutory authorities in the public sector domain. The state-owned enterprises are expected to play an important role in shaping economic development of the country by contributing to GDP, ensuring value addition and generating employment. However, most of these make significant losses and the privatization program of these entities are ongoing.

2.2 The Public Procurement System and its links with the public finance management and public governance systems

The size of Bangladesh's annual budget (FY19) was about US\$ 53 billion of which public procurement allocation accounted for about US\$ 24.1 billion. Public procurement had a share of about 8 % of the country's GDP and 45.2% of the country's annual budget in FY19³⁰.

Public procurement is regulated by the Public Procurement Act 2006 with supplemental Public Procurement Rules 2008, e-GP Guideline 2011 and Delegation of Financial Power (DOFP). The PPA 2006 has been amended several times by the Public Procurement (1st and 2nd Amendment) Act 2009, the Public Procurement (Amendment) Act 2010 and the Public Procurement (Amendment) Act 2016. Bangladesh's public procurement framework (PPA 2006, PPR 2008, e-GP Guidelines, and DOFP) is adequately recorded and organized hierarchically with clearly established precedence. It covers goods, works and services including consultancy services. It extends to all procuring entities in the country utilizing public funds including all government, semi-government, autonomous bodies, bodies corporate, state-owned companies and public authorities, without any exception. Any modification of the PPA 2006 needs a great deal of discussion and Parliament's approval. In the case of the PPR 2008, amendment requires approval of the Legislative Division of Ministry of Law, Justice and Parliamentary Affairs.

The Central Procurement Technical Unit (CPTU) under the Implementation Monitoring and Evaluation Division (IMED), Ministry of Planning functions as the nodal procurement policy formulation agency of the country. CPTU was established in 2002. CPTU is responsible to - (i) supervise and regulate compliance with the procurement laws; (ii) conduct public procurement reforms; (iii) prepare amendment of procurement laws; (iv) develop, operate and maintain the central electronic government procurement (e-GP) system; (v) develop and issue standard tender documents and relevant templates; (vi) provide interpretation of procurement laws without influencing procurement processing; (vii) prepare reports regarding the effectiveness of the public procurement process with recommendations for improvements; (viii) carry out procurement capacity building training etc.

³⁰ Calculated from budget allocations on different economic codes under capital and recurrent expenditure heads for FY2018-19. Source: Finance Division, Ministry of Finance, Government of Bangladesh.

The main actors in public procurement are the procuring entities, by law endowed with administrative and financial power. There are about 10,000 procuring entities (units and offices under the organizations) under the 1362 public organizations in the country.

In Bangladesh, both development and revenue budget allocation constitute the budgetary and sectoral framework. Development expenditure (including procurement) requires preparation of projects by the procuring agency/line ministry/division. Recently, government has also approved a new stream of budget utilization, called single budget, which covers large schemes across the sector.

All allocations under capital expenditure under national budget and some of the recurrent expenditure constitute the total public procurement outlay. The public procurement system works broadly through (i) allocation of procurement budget to the procuring entities through their directorate/departments/institutions, (ii) processing of procurement through defined legislative procedures and delegation of financial power (DOFP), and (iii) payment and auditing of public expenditure by the office of the comptroller and auditor general (OCAG).

2.3 National policy objectives and sustainable development goals

The management of public finances in Bangladesh is concentrated in two authorities, the Finance Division, Ministry of Finance and the Planning Commission, Ministry of Planning. While the Finance Division, Ministry of Finance is responsible for national budget preparation, the Planning Commission prepares the annual development programs (ADP). The Planning Commission has the lead responsibility for the formulation of national development strategy ensuring that a robust set of cross-sectoral and sectoral strategies are in place.

The present government's Vision 2021 and associated Perspective Plan 2010-2021 aims to place Bangladesh in the first stage of a middle-income economy and to reduce the incidence of poverty from 40 percent in 2005 to 15 percent by 2021. The 6th Five-Year Plan covering FY11-15 was the government's main instrument for the implementation of Vision 2021 and Perspective Plan. It highlighted the importance of developing strategies, policies, and institutions to enable Bangladesh to accelerate growth and reduce poverty. Key strategic focus areas of the 6th Five Year Plan (FY11-15) included environmentally sustainable development (conservation and maintenance of natural resources, climate change) and good governance (addressing capacity constraints in public administration, occasional weaknesses in economic management and corruption). The 7th Five-Year Plan (FY16-20) also focussed on sustainable productive employment for the growing labour force and a substantial increase in investment. Other key strategic elements of the plan are to pursue an environmentally sustainable development process and ensure good governance. Priority Public Financial Management (PFM) actions identified in the 7th Five-Year Plan include³¹ :

- improving public investment management through (i) the introduction of a multi-year Public Investment Program (PIP) to ensure a close match between approved projects and the

³¹ Source: 7th Five Year Plan, FY 2016-2020, Published by General Economic Division, Planning Commission, Government of Bangladesh, December 2015

availability of financial resources, (ii) strengthening project design, appraisal and approval capacities and systems to increase the quality of the investment portfolio, and (iii) the institutionalization of the PIM reform agenda by establishing effective consultation and coordination mechanisms.

- introducing a financial management information system (FMIS) capable of producing timely, comprehensive, and reliable financial statements in line with international accounting and reporting standards;
- further implementation of the medium-term budget framework (MTBF);
- increased budget and budget execution transparency;
- strengthening of audit systems; and
- enhancing integrity in procurement through the further expansion of procurement initiatives, including e-Procurement and online procurement performance monitoring system (PROMIS).

2.4 Public Procurement Reform

Public procurement reform in Bangladesh started in 1999 with the initiation of the Country Procurement Assessment at the national level. Subsequently, the Country Procurement Assessment Report (CPAR) 2002 identified several weaknesses including - (i) fragmented procurement system and procedures across the country, (ii) weak standard tender documents, (iii) delay in the procurement process due to complex bureaucracy, (iv) absence of procurement policy formulation unit, (v) weak contract administration, (vi) lack of professional competencies, and (vii) absence of complaint handling mechanism.

Following the recommendations of the CPAR 2002, the Government of Bangladesh (GoB) implemented two major procurement reform projects with the technical and financial support of the World Bank. These were: Public Procurement Reform Project (PPRP) implemented during 2002–2007 and PPRP II with two additional financings implemented during 2007–2017. The third project, Digitization of Implementation Monitoring and Public Procurement Project (DIMAPPP) is now under implementation. As a result of these initiatives, the country at present has a robust public procurement system in place which includes a procurement law, secondary legislation and associated standard bidding documentation, a well-functioning nodal agency, the Central Procurement Technical Unit (CPTU), under the Implementation Monitoring and Evaluation Division (IMED) of the Ministry of Planning (MOP) to regulate public procurement, an extensive capacity development program, a comprehensive electronic government procurement (e-GP) portal with online procurement performance measurement mechanism, and a citizen engagement system supported by a comprehensive strategic and behavioral change communication program.

Bangladesh has made great strides in electronic procurement. The e-GP portal (www.eprocure.gov.bd) covers end-to-end procurement process starting from procurement planning to authorization of payment to the contractors/suppliers. The expansion of the use of e-GP is progressing fast with high momentum. As of FY19, out of 1362 public organizations in Bangladesh, 1325 organizations including state owned enterprises with 8,668 procuring entities (units and offices under the organizations) and 65,559 bidders have been registered in the

system. In FY 19, e-GP processed 62% of US\$ 24 billion public procurement expenditure of Bangladesh. The module up to contract award is fully operational now. However, the electronic contract management (e-CMS) and payment module has been developed and under pilot phase now. This module will be rolled out progressively starting July 2020.

Figure 2.1: Adoption of e-GP
(Data Source: e-GP Data, eprocure.gov.bd)

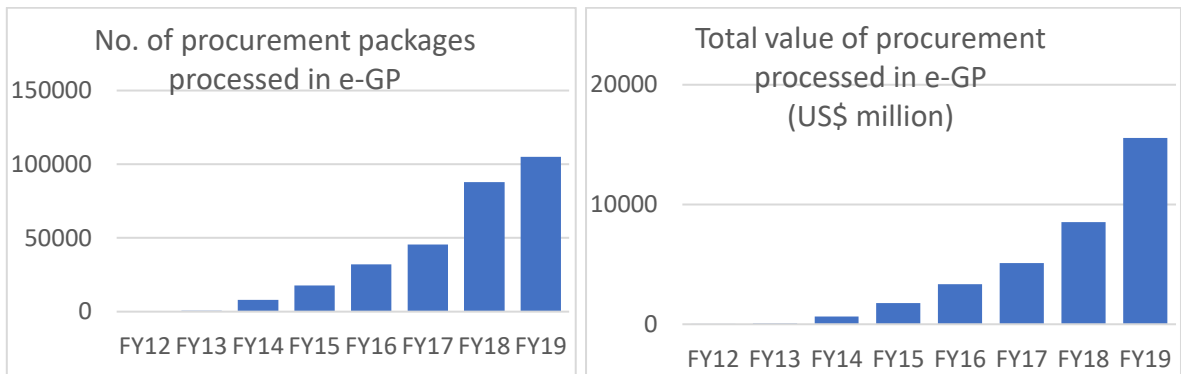
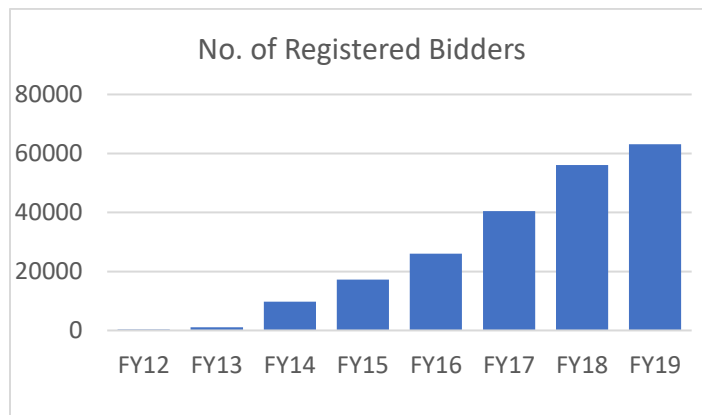


Figure 2.2: Increase of registered bidders in e-GP



As part of the reform projects, 37,000 persons have so far received training in procurement including procurement professionals, bidders and other stakeholders. An estimated US\$600 million savings were made in between 2012 and 2018 due to use of e-GP.³² Procurement time (invitation to contract signing) decreased from 93 to 59 days in case of open tendering method from FY11 to FY19. The bidding environment has improved significantly compared to the system based on manual (paper-based) tendering. Market access has also increased.

³² Impact evaluation of Bangladesh e-GP system by the World Bank, 2019

3. ASSESSMENT

There have not been many formal diagnostic assessments of the legal and regulatory framework of Bangladesh public procurement system. The most recent assessment carried out by the Asian Development Bank (ADB) and Public Expenditure and Financial Accountability (PEFA) 2016³³ suggested that Bangladesh national legal framework on public procurement is robust and largely free from significant risks. PEFA 2016 has given Bangladesh an overall rating of 'B' for all indicators, marginally up from the 2010 assessment (where one indicator on public access to procurement information was marked as 'C') and also commented very favourably on the country's e-procurement system established in 2011 by the CPTU. Nonetheless, these reports did not take account of the recent amendments to the legal and regulatory framework. In terms of weaknesses or risks, therefore, the assessment identifies some of the longstanding issues and challenges with the legal and regulatory framework in addition to the new areas of concerns.

3.1 Pillar I - Legal, Regulatory and Policy Framework

Public procurement is regulated by the Public Procurement Act 2006 with supplemental Public Procurement Rules 2008, e-GP Guideline and Delegation of Financial Power (DOFP). The PPA 2006 has been amended several times, by the Public Procurement (1st and 2nd Amendment) Act 2009, the Public Procurement (Amendment) Act 2010 and the Public Procurement (Amendment) Act 2016.

Overall Strengths:

- Existence of a single legal framework (PPA 2006/PPR 2008) that governs the entire public procurement system across the country.
- Existence of a well-functioning nodal procurement policy unit, Central Procurement Technical Unit (CPTU).
- CPTU has a widely used website and updated regularly.
- A widely used Electronic Government Procurement (e-GP) System managed by CPTU. 62% procurements of the country by value were processed through e-GP in FY19.
- e-GP system is self-sustainable (earns revenue).
- Existence of comprehensive e-GP Guidelines.
- Freely accessible standard tender documents for Goods, Works and Services.
- Mandatory provision to pre-disclose eligibility and qualification criteria during procurement process.
- Existence of a comprehensive capacity development program.
- Existence of well-defined procurement methods.
- Open Tendering Method (OTM) is the preferred method and alternative methods need justification. 80% of goods and works contracts were processed through OTM in FY19.

³³ The Country Procurement Assessment Report (CPAR) dates to 2002 and covers the pre-reform stage. An initial attempt to undertake a MAPS assessment in 2006 did not materialize.

- Conflict of interest and impartiality certificate requirements by the Tender Evaluation Committee (TEC) members during tender evaluation.
- Presence of a functional complaint redress system with an appeal mechanism.
- Existence of separate Public Private Partnership (PPP) Act and Guidelines.

Overall Weaknesses:

- Use of price cap in national Open Tendering Method (OTM) for works (rejecting bids more than 10% below or above the estimated cost), in lieu of the intended objective of improved quality and timely completion of works, resulted in market distortion. For example, (i) the average number of participants per procurement package decreasing from 4.2 to 2; (ii) single tenders in OTM packages increasing from 20% to 50% and (iii) large bidders monopolizing the procurement market and small bidders getting marginalized.
- The Limited Tendering Method (LTM) for national works procurement, targeted to encourage small and new bidders with provisions such as price cap, lottery to determine the winner in the case of tied bids and not requiring any past experience, is not consistent with international good procurement practices, and resulted in failed constructions, delays and cost-overruns. Bidders' interviews revealed that most of the new and small bidders are not getting the intended advantage as the large bidders can also participate in the procurement process.
- The sanction/debarment process lacks independent review (decision by the head of the procuring agencies is final) except by way of appeal to the judiciary. In addition, absence of detailed procedure/guidelines for debarment causing inconsistent implementation by procuring agencies.
- Sustainable public procurement has not yet found its way into the public procurement legislation and practices.

Indicator 1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations

Findings

Sub-indicator 1(a) – Scope of application and coverage of the legal and regulatory framework:

Bangladesh's public procurement framework (PPA 2006, PPR 2008, e-GP Guidelines, and DOFP) is adequately recorded and organized hierarchically with clearly established precedence. It covers goods, works and services including consultancy services. It extends to all procuring entities in the country utilizing public funds including all government, semi-government, autonomous bodies, bodies corporate, state-owned companies and public authorities, without any exception. However, procurement related to national security do not follow the public procurement framework as provided in the PPA 2006 (Section-68, sub-section-2). Any modification of the PPA 2006 needs a great deal of discussion and Parliament's approval. In case of PPR 2008, amendment requires vetting of the Legislative Division of Ministry of Law, Justice and Parliamentary affairs. PPA 2006 and PPR 2008 are accompanied by comprehensive e-GP Guidelines and a suite of standard bidding documents. All of these documents are in the public

domain at the CPTU website (www.cptu.gov.bd) and are accessible without any cost. Other relevant information is also available at the e-GP website (www.eprocure.gov.bd) and the Finance Division's website (www.mof.gov.bd). In addition, The Right to Information Act 2009 and Receipt of Information Rules 2009 also ensure access to and receipt of information at free of cost. Public Private Partnerships (PPPs) are regulated separately by the PPP Act 2015 and the Procurement Guidelines for PPP projects 2018. There is a reference in the PPA 2006 and PPR 2008 to PPPs and concessions contracts. However, after the enactment of PPP Act 2015, all PPPs are subject to this new law. The country's procurement process is adequately complemented by the Competition Act 2012, Public-interest Information Disclosure Act (Provide Protection) 2011, Right to Information Act 2009, the Information Preservation Rules 2010, Anti-Corruption Commission Act 2004 and the Arbitration Act 2001, etc.

Sub-indicator 1(b) – Procurement methods: Competitive bidding is the default method of procurement and the PPA 2006 and PPR 2008 set out the conditions under which less competitive methods of procurement can be used. In the case of goods, works and physical services, apart from the preferred open tendering method (OTM)(single stage single envelope), other available methods are the limited tendering method (LTM), the two stage tendering method (TSTM), the direct procurement method (DPM) and the request for quotations method (RFQM). In addition, in 2010 the one stage two envelope tendering method (OSTETM) for turn-key and large and complex supply-installation of plant procurement was also introduced. All of these methods can be used in both national and international markets. In the case of consultancy services, the available methods are - quality and cost-based selection (QCBS), selection based on fixed budget (FBS), least cost selection (LCS), selection based on consultants' qualification (SBCQ), selection of community organization (CSOS), single source selection (SSS), design contest (DC), and individual consultant selection (ICS). Agencies generally use the open tendering method (national competitive bidding) for goods and works. Methods other than OTM in goods and works and QCBS and FBS for services require justification and approval by the head of the agency before being initiated.

A study on 296,760 e-GP procurement packages processed between FY12 and FY19 revealed that open competitive methods (OTM and OSTETM) represent 80% of total value of invited goods and works contracts. The next most widely used method is the LTM for works with a share of 13% of the total procurement value. The LTM method is generally used for moderately small value works procurement (value up to BDT 30 million) at decentralized level and, in practice, is open to all registered bidders in e-GP in the particular district where the tender is invited.

Though not a method itself, the PPA 2006 has made provision for framework agreements (FA) through OTM or LTM for goods and physical services. Very recently, during this assessment, one model document (PG7A) for framework contracts have been finalized and uploaded in the CPTU's website. However, detailed guidelines for using framework agreements are not yet available and FA are also not yet included in the e-GP system. Consequently, in practice FA are used very little in the country.

Less competitive methods are unambiguously established at an appropriate hierarchical level along with the associated conditions under which each method may be used. The total array of methods provides for an appropriate range of options to ensure free and fair practices, transparency, and accountability thereby ensuring better value for public money. Fractioning of contracts to limit competition is in general prohibited. However, it is permitted in case of packages where the following conditions are justified: (i) capacity of local bidders is low or limited, (ii) the size of the package is large, (ii) implementation with due regard to geographical location of sites for works contracts is convenient, and (iv) fragmentation is needed for more competition.

Standards for competitive procedures are appropriately specified for the most part although there are substantial gaps compounded by the amendments brought on the procurement framework in 2016. These provisions affected the LTM and OTM methods which are discussed in detail at the end of indicator 1.

International competitive bidding (ICB) is permitted only where it is not feasible to procure nationally and strictly necessary in order to attract international competition (suggesting that international bidders are at least permitted in nationally advertised procurement).

There is a need to include quality-based selection (QBS) as a procurement method for complex services where having a highest quality consultant is a paramount necessity.

PPA and PPR have special provisions of procurement for national emergency like natural calamities/pandemic. PPA Clause 68 allows direct procurement in case of national emergency subject to recommendation of the Cabinet Committee on Economic Affairs (CCEA). There are multiple thresholds for emergency procurements, as high as BDT 50 million per year, up to which the concerned ministry can do the procurement without facing CCEA. Anything beyond this threshold requires recommendation from the CCEA. It was observed during the COVID19 pandemic that the current provision is not adequate to allow timely decision making in case of life saving emergency procurements. There is scope for streamlining the emergency procurement provision including complete delegation of the procurement responsibility to the implementing agencies (i.e., selection of procurement method, approval of bid evaluation report and contract), engage UN agencies as partners, use of request for quotation methods without any thresholds etc.

Sub-indicator 1(c) - Advertising rules and time limits: All procurement opportunities using competitive methods are publicly and widely advertised. Under the OTM (NCT), tenders must be published in print and electronic media in at least in one Bangla and one English daily newspaper of wide circulation, side by side with the optional requirement of publication in the procuring entity's own website (if any) and local newspaper (beyond threshold of BDT 5 million). In case of OTM (ICT), there are additional publication requirements in any English newspaper or publication or international website of the UN (www.dgmarket.com) and if required, on the notice boards of trade missions of other countries or country's trade missions abroad. Procurement notices for all contracts with a value of at least BDT10 million in the case of goods/works and BDT 5 million in

the case of services, irrespective of national or international market approaches, must be published in the CPTU website (www.cptu.gov.bd) which is accessible without any cost. In the case of e-procurement, irrespective of value, tenders are automatically displayed in the national e-GP portal (www.eprocure.gov.bd) and accessible at no cost to the public and registered and as well as non-registered bidders.

Templates for advertisements for invitations for pre-qualification, invitation for tender, REOI, etc. are prescribed by the rules and contain all the pertinent information for bidders to determine their ability to submit tenders and decide to participate in the tendering process. The PPA 2006 and the PPR 2008 and the STDs require the contracting authorities to fill in the format with all relevant information as required by the format. The notices also contain reference to the tender documents where all pertinent information is pre-disclosed (in ITT & TDS), and available in the national websites.

Minimum time frames for preparation and submission of tenders are prescribed in the PPR 2008 and provide a range (of days) depending on value and methods - from minimum 14 days for contracts with a value up to BDT 20 million (approx. US\$ 0.24 million) to 28 days for contracts with a value above BDT 50 million (approx. US\$ 0.60 million) and 42 days for all ICT contracts. In case of re-advertisement, time limits are almost half of these. The required timeline is same for e-GP and manual procurements.

Sub-indicator 1(d) - Rules on participation: The PPA 2006 and PPR 2008 ensure the pre-disclosure of objective qualification and eligibility criteria along with other pertinent information which are designed to give access and enable assessment of the ability of bidders to participate in and perform the contract in question. However, in case of LTM works contracts up to a value of BDT 30 million, the requirement of assessment of the capacity of bidders and specific experience has been waived as a result of the amendment of the PPA in 2009.

In general terms, access to procurement in Bangladesh is non-discriminatory for all bidders across the world. Legally there's no bar on participation for any bidder in the procurement process, except if a bidder is - (i) debarred from participating in public procurement on the grounds of execution of defective works in the past; (ii) debarred from participating in public procurement on the grounds of being involved to fraud, corruption, collusive or coercive practices; and (iii) is from a country or offers product(s) from a country with whom the GoB has no trade relation or sanctioned by the UN Security Council.

Section 25 of PPA 2006 sets out the principle of non-discrimination subject to a very general exemption "unless the Government otherwise decides" which would, in principle, allow the Government to exclude any number of bidders on unspecified grounds. Though the connection is not made explicit, it is conceivable that this relates to Rule 47(1) of the PPR which states that the principle of non-discrimination shall not apply where there is a "standing Government Order" or an "agreement signed by the Government" prohibiting or limiting participation as a result of (i) development partner rules (ii) debarment, or (iii) countries with which Bangladesh has ceased to have trade relations.

In case of corruption, fraud, collusive, obstructive and coercive practices, breach of contract, and also non-performance, altogether called 'misconduct', the PPR 2008 provides for the exclusion of bidders from the procurement and permits debarment and punitive measures, based on proof of the alleged involvement of bidders/procuring officials in the prohibited practice(s). All debarment notices are sent to the CPTU and published in the CPTU website. However, the debarment is carried out by the Procuring Entity (PE)/HOPE, not centrally. Debarment process does not have any independent review. The process does not appear to be a transparent and well defined in establishing the right of defence, giving some room for abuse. Procuring agencies are inconsistently implementing the provision of debarment in-terms of duration and extent of debarment. Rule 127 of the PPR provides some guidelines about the debarment process. However, there is a need for enhancement of the guidelines to (i) determine the length of debarment period for different types of misconducts, (ii) how to determine the extent of debarment – whether debarment applies to the entire country or for a particular organization, (iii) classify misdemeanours and variations of coverage for different infringers (individuals, companies, directors, agents, associated companies, etc.), and (iv) consider mitigating circumstances and rehabilitation of the infringer.

Under rule 61(3) of the PPR 2008, government owned factories or enterprises may participate in public tenders if they establish that they are legally and financially autonomous. However, there are rare cases where SOEs were found to have participated in the competitive biddings. Because, most of the SOEs in Bangladesh are financially insolvent and run with the help of government subsidy. Since they are not financially capable of mobilizing financial resources for bid security, performance security and do not seem to be able to compete with the private enterprises, the PPA/PPR explicitly provided some benefits to encourage their participation through direct tendering process. The total volume of procurement from the SOEs (less than 2%³⁴) is insignificant considering country's overall procurement. There is a mandatory domestic preference scheme for international procurement, and this appears to be used the procuring entities in practice. Under Schedule II of the PPR, preferences are limited to 15% of the delivered price in the case of goods and 7.5% in case of works contracts.

Sub-indicator 1(e) - Procurement documentation and specifications: The legal framework establishes detailed contents to be the part of tender document which is sufficient for bidders to respond to the requirement. Technical specifications must be neutral, avoiding any bias, and based on local and/international standards where required and available. Performance specifications are used where appropriate. Equivalent specifications are permitted if the procuring entity is unable to define a generic specification and rely on one which identifies a specific product. Potential bidders are allowed to request clarifications either in writing or verbally in the pre-bid meeting. In terms of clarifications, the legal framework is very clear about the procedure and timeline, the procuring entity is required to respond in writing to all bidders (without disclosing the origin of the request) in a timely manner.

³⁴ World Bank staffs' estimate

Sub-indicator 1(f) - Evaluation and award criteria: The legal framework clearly spells out the requirement that evaluation criteria must be unambiguous and objective, relevant to the object of procurement and subject matter of contract and must be pre-disclosed and not to be changed during evaluation process. The award criterion is essentially that of the substantially responsive lowest evaluated price. This permits the use of limited non-price factors in the evaluation, and these must be objective and quantifiable and given a relative weighting in the evaluation method or be expressed in monetary terms, wherever practicable. The legal framework mentions 'life cycle' costing as an example, but does not, however, envisage it as a broader criterion (other than to the extent that such could be accommodated within the assessment of lowest evaluated price) or value for money. The PPR 2008 clearly defines methods and procedures for consultant selection combining quality and cost considerations including the application of relative weights, as appropriate. However, recent amendment of PPA 2006 and the PPR 2008 have imposed a bar to the PE wishing to use the QCBS method with a quality to cost ratio of 90:10. Now, the PEs are required to seek prior permission from the Cabinet Committee on Economic Affairs (CCEA) in using QCBS method with Q-C ratio of 90:10. Confidentiality of the process during tendering, especially up to contract award is generally maintained as it is mandated by the legal framework and 'Code of Procurement Ethics'.

Sub-indicator 1(g) - Submission, receipt and opening of tenders: The modalities of submitting tenders, receipt, submission of late bids and rejection are well defined. There are defined procedures for bid/EOI/RFP opening. The opening of tenders proceeds immediately after the deadline set (generally within one hour after the deadline) and it is previously declared in the invitation of tenders and tender documents. The bid opening proceedings are recorded and signed by the opening committee members and made available to the bidders both manually and in e-GP (in case of e-GP, the opening report is system generated and circulated). No other personnel except the Bidders or their representatives having authorizations are allowed at the bid opening. The PE has the responsibility of keeping the opened tenders in safe and secure custody and to ensure the integrity of data and the confidentiality of tenders. There are provisions prohibiting any disclosure of information until the notification of award. There is a provision for receiving bids in multiple locations to facilitate hassle free submission of bids by the bidders. However, all bids are transferred to a single location and the opening of bids happens in the same location. All locations and time are clearly defined in the tender notice. This provision seems to create more problems than it solves. For example, all bids from multiple locations may not reach to a single location on time due to an uncontrollable reason. With the introduction of e-GP (62% procurements of the country by value were processed through e-GP in FY19) this provision is practically redundant now.

Sub-indicator 1(h) - Right to challenge and appeal: There is a functional complaint redress mechanism including an independent review panel at the highest tier. There are four tiers in the complaints remedy process. First, the tenderer needs to submit a complaint to the PE. If the tenderer does not receive a response within 5 working days or is not satisfied with the response of the PE, s/he can proceed to the Head of the Procuring Entity (HOPE). The HOPE is expected to respond within 5 working days. If the tenderer is not satisfied with the response from the HOPE, the complaint may be submitted to the Secretary of the concerned ministry. The Secretary is

given 7 working days to respond. If the tenderer is still not satisfied with the response, only then can s/he (having exhausted the above 3 steps) pursue the appeal case to the review panel. In all cases, the tenderer is also given a time limit to pursue each step in his/her case. There is a procedure (guidelines) and strict time limits in place (the review panel must issue a written decision within a maximum of 12 working days of receipt of the complaint). The review panel has the authority to suspend the procurement proceedings, recommend remedies, ask for re-evaluation and can direct a party to financially compensate the other party. Decisions of the review panel are subject to judicial review only. The legal framework requires that CPTU publish the list of the names of panel members, decisions and an annual summary of the decisions of the review panel in its website (www.cptu.gov.bd), subject to protecting some sensitive information. But there is no time limit for CPTU to publish these in the website. CPTU is found to have published some information relating to annual decisions of the review panels but the provision of publishing case summaries is still a work in progress.

Notwithstanding the positive elements of this review procedure, the process of reaching the review panel, even in some cases getting to the HOPE is difficult and lengthy. An aggrieved bidder has to wait a long time (at least 15 working days) to go to the review panel and during this period the PE can award the contract with the approval of the head of the agency or the concerned ministry. Moreover, there is no standstill period to allow the participating bidders to know the result of the bid evaluation on time and act based on that.

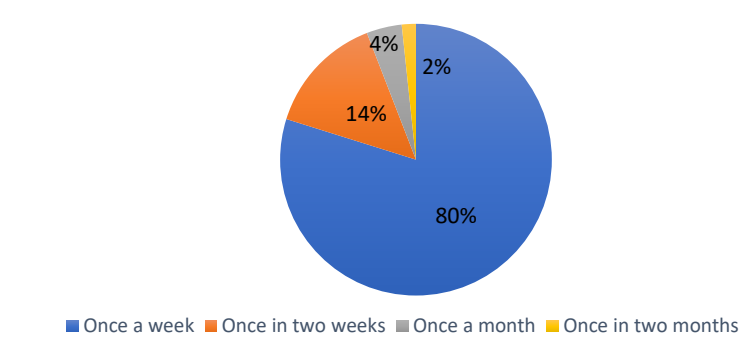
PPR 2008 prescribes the means of recording/registering complaints and the e-GP system facilitates the lodging of complaints through the system. However, the e-GP system needs to be enhanced further to enable the tracking of complaints and their resolution in each of the complaint handling tiers, including the review panel.

Bangladesh's review mechanism is based on the earlier version of the UNCITRAL Model Law (2004) and does not permit a bidder to challenge the procuring entity's choice of procurement methods, Cabinet Committee on Government Purchase (CCGP) recommendations, and the short list. In practice, this is one of the most violated provisions of any procurement law (i.e. choosing a non-competitive procurement method where the relevant conditions are not met). The UNCITRAL model law was updated in 2011 which excluded a number of these limitations. The bidder's survey result indicates that about 52% of bidders perceive the existing redress system at administrative level not to be fair. They also opined that the appeal mechanism is effective with 61% positive feedback. The perception of 93% of surveyed bidders was that that RPs are fair enough in discharging their responsibilities, though almost all of them never filed any appeal to review panel.

Sub-indicator 1(i) - Contract management: The country's legal procurement framework sets out and assigns clearly and in detail the functions for undertaking contract management during implementation of a contract. It includes delivery inspection, monitoring progress, contract amendments, payment, completion of contract, time extension, termination and dispute resolution mechanism. Disputes are settled, in a sequential order - (i) by way of amicable solutions, (ii) adjudications and (iii) arbitration in accordance with the provisions laid down in the

contract (pre-disclosed in the bidding documents). The final outcome of the dispute resolution process is enforceable. Contract implementation and payment process are monitored by the contract administrator (usually Project Director or Procuring Entity) pursuant to standard contract provisions (GCC, work schedule, etc.). Eighty percent (80%) of bidders who responded claimed that, in most cases, civil works contracts are subject to frequent supervision (at least once a week) by the authority for timely completion. But none of them were sure that such supervision had any impact on the quality of civil works. Besides, based on procurement records, only 30% of the contracts are completed on time which is a major concern at this moment for the country.

Figure 3.1: Contract implementation supervised by contract administrators



The conditions and procedure for contract amendments are clearly defined; they ensure economy and do not arbitrarily limit competition.

Sub-indicator 1(j) - Electronic Procurement (e-Procurement): Bangladesh has made great strides in e-procurement. The e-GP portal (www.eprocure.gov.bd) covers the procurement process end-to-end, starting from procurement planning to authorization of payment to the contractors/suppliers. The expansion of the use of e-GP is progressing fast with high momentum. As of FY19, out of 1362 procuring organizations in Bangladesh, 1325 organizations with 8,668 Procuring Entities (PEs) and 65,559 bidders have been registered in the system. In FY 19, e-GP processed 62% of US\$ 24 billion public procurement expenditure of Bangladesh. The module up to contract award is fully operational now. However, the electronic contract management (e-CMS) and payment module has been developed but currently under a pilot phase. This module will be rolled out progressively starting July 2020. Bidder registration process is online including paying a nominal yearly registration fee. International bidders are also allowed to register online.

The e-GP system is currently set up to process public procurement by all methods for goods and works. The system is also designed to process selection of consultants (both individual and firm) and processing of international procurement (ICB) contracts, though these functionalities are not yet rolled out. The system has a built-in key performance indicator (KPI) based monitoring mechanism. This module is undergoing massive enhancement to facilitate benchmarking and data analytics to improve procurement performance and inform policy implications. It is capable of being configured to accommodate other specific procedures, e.g., development partner’s prior review. The system has been thoroughly reviewed and endorsed by the World Bank. The World

Bank is using this system for majority of the procurement under the projects funded by the Bank in Bangladesh. e-GP is also adopted in some Asian Development Bank (ADB) funded projects.

Electronic tools are used for processing the whole procurement cycle from planning through contract completion including preparation of procurement plan, invitation for bids, and bidding document; issuance of electronic bid security, submission, opening, evaluation and approval of bid evaluation report, issuance and acceptance of notification of award. The recently developed e-CMS system allows submission and monitoring of the physical and financial progress of the contract including monitoring work program. It also facilitates contract amendment including time extension and variation orders, preparation and submission of invoices, approval of payment, contractor's performance rating etc. The inclusion of the geo-tagged image capturing facility using smart phone-based software is also in progress. Once fully rolled out, e-CMS is expected to address the existing issue of the high rate of cost and time overruns in contracts by facilitating enhanced monitoring (70% contracts are not completed on time causing time and cost over-run).

Bangladesh's e-GP system is guided by the e-GP Guidelines 2011, based mainly on the PPA 2006 and the PPR 2008 with some adaptation by way of business process reengineering (BPR).

The system takes account of privacy, security of data and authentication. All users, including payment service providers (Banks) after getting registered in the system have got log-in access to the system to use their dashboards for processing tenders. The CPTU owns, operates and manages the e-GP system portal. The system has been the subject of a national and district-wise awareness campaign and training for users and other interested parties.

All large organizations are processing all of their procurements except international procurements, consultancy services and direct procurements through the e-GP system. While, the smaller organizations are progressively reaching 100% use of e-GP.

e-GP system weaknesses/scope for improvements

Despite its great success and wide use, the e-GP system still has room for improvement in the following module and functionality – (i) the bidder registration process allows one firm to have multiple registrations in different years; (ii) e-GP data structure is not suitable for extraction of data from bids and bidding documents to automatically prepare the bid evaluation report; (iii) there is no dashboard available for e-GP users to track procurement status; (iv) there is no standard reporting function in e-GP enabling data analytics; (v) bidders need to upload pdf or others files as evidence of experience causing server overload; (vi) contract management and payment provisions are not yet fully operational; (vii) module is not yet finalized for international bidding; (viii) e-GP system does not allow inviting procurement packages with more than one lot; (ix) firms debarred under the national debarment process (PPA/PPR) cannot submit tenders in e-GP even if the procurement is funded by the development partner where the national debarment

is not applicable; and (x) there is no module for services procurement and framework agreements.

Recommended cross-cutting e-GP enhancements

- Registration of the tenderer: provide unique identification number to each firm. Include provision of checking at the time of registration/renewal whether same firm has created multiple registrations in e-GP.
- Data Structure: update the data structure related to the tender document and tender submission forms to facilitate use of data in other modules, for example, tender evaluation forms, contract management module etc.
- Procurement Dashboard: develop/update the dashboard for the procuring entity, project director and head of the agency enabling the user to check at a glance the status of procurement and contract management (including payment) activities under their jurisdiction and also track pending tasks and upcoming events.
- Standard Report: Develop/update standard reporting format/forms for each e-GP user to generate standard procurement, contract management, and payment related reports for the procurement activities under his/her jurisdiction.
- Contractors' Database: under the contractors' database develop provision to generate a report for each firm using its unique identification number. The report will produce among others a list of contracts that the contractor has signed and the corresponding payment information from the e-payment system.
- Experience/Performance Certificate: develop/update the contract management module to issue work experience/performance certificate to the contractor/supplier/consultants with a unique identification number.
- Tender Evaluation Forms: update the tender evaluation form with the following features – (i) pull data from the tender document (e.g., qualification criteria); (ii) pull data from the tender forms submitted by the tenders; (iii) pull data from tenderer's experience certificates using the unique identification numbers of the certificates; (iv) verify data with the contractors' database; (v) check the bidders debarment status; and (vi) introduce a drop down menu to record the reason of tenderer's non-responsiveness.
- Contract management and ICB modules: roll out electronic contract management module and international competitive bidding module.
- Multiple lots: include provision in e-GP to invite tenders for multiple lots under the same package.
- Debarred Firms: remove the provision of excluding debarred firm from participating in the procurement process in case of development partner funded contracts, i.e., when PW3-D and PG3-D standard tender documents are in use.
- Contract implementation monitoring using geo-tagged images: include the feature of contract implementation monitoring using geo-tagged images in the e-CM. Develop relevant software for smart phone.
- Complaint Handling: update the existing complaint management module to process and track any procurement related complaint and prepare consolidated reports on complaints for the procuring entity, project and agency.

- Framework agreements, electronic catalogues and electronic reverse auctions: develop and roll out e-GP modules for framework agreements, electronic catalogues and electronic reverse auctions.
- E-GP modules for consultancy services: Develop and roll out e-GP modules for consultancy services.
- Linking e-GP and IBAS++: connect e-GP with IBAS++ to facilitate links between budget data, procurement data and payment data.
- Develop cost estimation module: develop cost estimation module in e-GP facilitating estimation of cost based on the average unit prices available in the e-GP.
- Block-chain: enhance security of the e-GP system through block-chain technology.

Sub-indicator 1(k) - Norms for safekeeping of records, documents and electronic data: The legal framework establishes a comprehensive list of procurement documents to be retained for record keeping purpose related to procurement transactions, including contract management. The rules explicitly list what information the procurement record should include and there is a requirement for procuring entities to retain all records of procurement and documents for a period of at least 5 years.

The record retention policy is compatible with the procurement post review rules. The procuring entity is bound by the rules to make records available to any person and to produce all records and documents for investigation and prosecution cases of fraud and corruption (with certain exceptions) and for the audit reviews. Bangladesh also has an Information Security Act and Protocols to protect electronic and physical records. These are also specified in Right to Information Act 2009, Information Preservation Rules 2010, Disclosure of Regulation 2011 and the Secretariat Instruction 2014. In case of e-GP, all procurement documents and transactions including the submitted bids are preserved in the e-GP system.

Sub-indicator 1(l)- Public procurement principles in specialised legislation: The provisions of the PPA 2006 and the PPR 2008 along with the DOFP are universally applicable for all PEs of government, semi-government, and autonomous bodies or authorities formed by law, if they use public funds appropriated to them from the government budget. State-owned enterprises and government owned companies established under the Companies Act are also subject to the procurement legislation while they are using public funds. There is no specialized legislation or decree in respect of any government agency that can regulate their procurement in any other form, except for a law (Special Act) relating to rapid supply of power and energy which overrides the PPA 2006 and PPR 2008. This law was enacted to facilitate rapid supply of power and energy on the verge of a severe energy crisis in the country. Though this ‘special’ legislation was enacted for a certain period, it has been extended multiple times. This law indemnifies procuring entity officials from any court for any kind of procurement activities accomplished in good faith. Nonetheless, in the case of defence purchases concerning national security, the government uses the ‘Defence Purchase Manual’ (DP-35).

The PPA 2006 and the PPR 2008 mentions that the concession contracts are to be awarded by way of separate directives and guidelines issued by the government. For PPPs, including those

which contain concessionary rights, the government has separately adopted a specialised PPP Act in 2015 which governs PPP projects. There is, in addition, a policy for Implementing PPP Projects through G2G Partnership 2017, Procurement Guidelines for PPP Projects 2018 and Guidelines for un-solicited proposals 2018. PPPs are governed exclusively by the PPP Act (modelled on UNCITRAL) which provides for competitive tendering for the most part. Responsibility for developing policies and supporting the implementation of PPPs are assigned to the PPP authority attached to Prime Minister's office (www.pppo.gov.bd).

Substantive Gaps and Recommendations:

Despite the generally positive assessment of the legal framework, there remain a number of substantial gaps in the legal framework as mentioned below:

Issue-1:

Price cap in the national open tendering method (OTM) for works (rejecting tender that is 10% below or above the estimated cost) has not served the intended objective of improving quality and timely completion of works. Instead, it has resulted the following concerns:

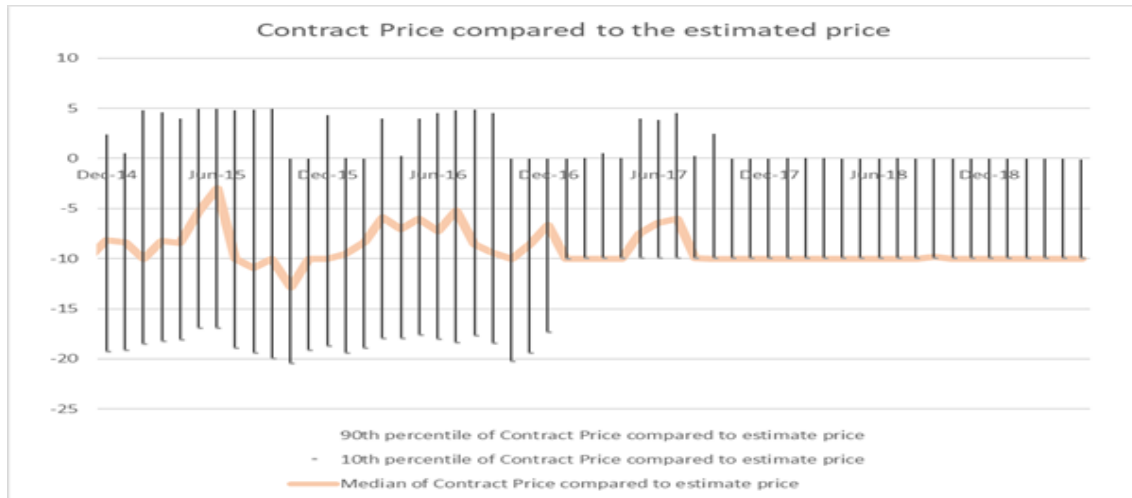
- (i) Decreased competition: the average number of participants in OTM works decreased from 4.2 to 2 and the submission of a single tender increased from 20% to 50%.
- (ii) Large bidders are capturing the procurement market and marginalizing small bidders: the business share of small bidders (bottom 10%) decreased by 40% and the business share of large bidders (top 5%) increased by 21%.
- (iii) Increased possibility of corruption by disclosing official estimates and encouraging informal sub-contracting
- (iv) Only 30% contracts are completed on time, with no discernible change in the quality of works

The 2016 amendment of the PPA 2006 introduced a 10% price cap on OTM (NCT- single stage single envelope) works procurement. The main intention behind this change was to avoid abnormally low bids in works contracts. The greater use of e-GP had resulted in increased competition and bidders were quoting much lower prices to win the contracts and eventually started cutting corners in terms of quality during implementation of the works or failed to implement the contract.

The official cost estimates are strictly confidential as stated in the PPA 2008 and without knowing the exact cost estimates it is possible that a qualified bidder with a justifiable price may become non-responsive due to the price cap. The accuracy of the cost estimation is also questionable. Besides, producing the price offer is the right/duty of a prospective bidder and this is the corner stone of the open tendering method. It is to be noted that, introduction of the price cap was not accepted by the development partners (DPs) like the World Bank and the ADB. Following the introduction of the price cap, in all new projects funded by the World Bank and the ADB, the financing agreements specifically state that this provision is not applicable under those projects while using OTM (NCT) method.

After the imposition of this change, it was observed in most cases that multiple responsive bidders quoted prices at exactly 10% below the estimated costs resulting in a tie in the winning bid price. The following figure demonstrates that the majority of OTM contracts for works after the imposition of the price cap in Dec 2016 were awarded exactly at the -10% price compared to the estimated cost.

Figure 3.2: Contract price of successful bidders compared to official estimated price
Data Source: All OTM works packages in e-GP (135,179 Nos.)



This implies that the bidders unlawfully managed to collect the confidential estimated cost of the works, giving rise to the possibility of corruption. Interviewed bidders emphatically claimed that the estimates were widely known even though they were not disclosed officially, and, in some cases, such information was collected through unfair means. Furthermore, the GoB had to introduce a tie-breaking matrix in order to determine the winning bidder. This provision further resulted in the largest bidders winning the contracts because the winner was eventually chosen on the basis of the bidder’s construction work turnover in that procuring organization. An analysis of e-GP data covering 135,179 procured works shows that, immediately after the imposition of +-10% rule, the business share of small bidders (bottom 10%) decreased by 40% and the business share of large bidders (top 5%) increased by 21%. GoB further revised the tie-breaking matrix in 2018 – however, it did not change the situation, according to the opinions expressed by the bidders during interviews. In addition, the +-10% rule impacted on the competitive environment in the OTM (NCT) works procurement. The following figures demonstrate that the average number bidders per procurement package had experienced an unintended gradual fall (Fig-3.3) and there is a sharp rise in the submission of single bids in a package (Fig-3.4).

Figure 3.3: Fall of average number of bidders per package
 Data Source: All OTM works packages in e-GP (135,179 Nos.)

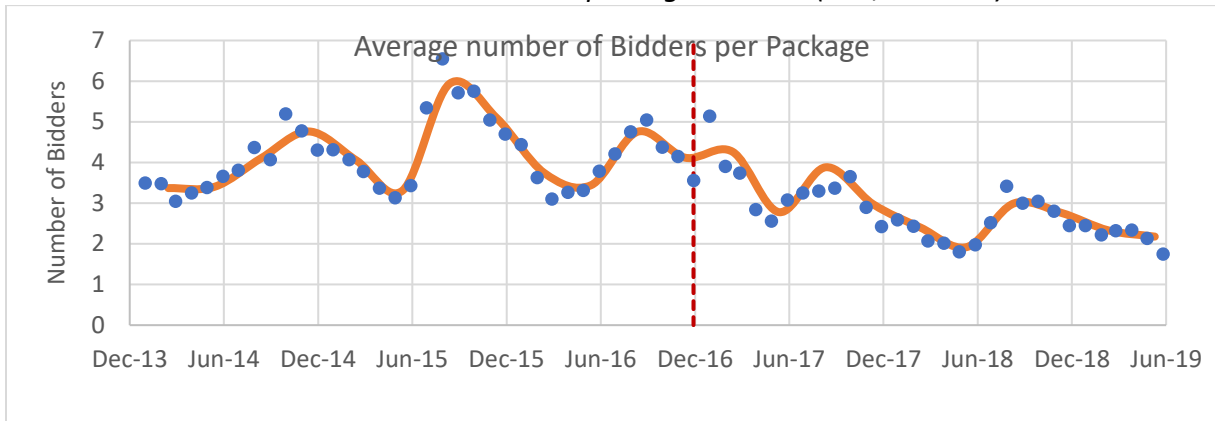
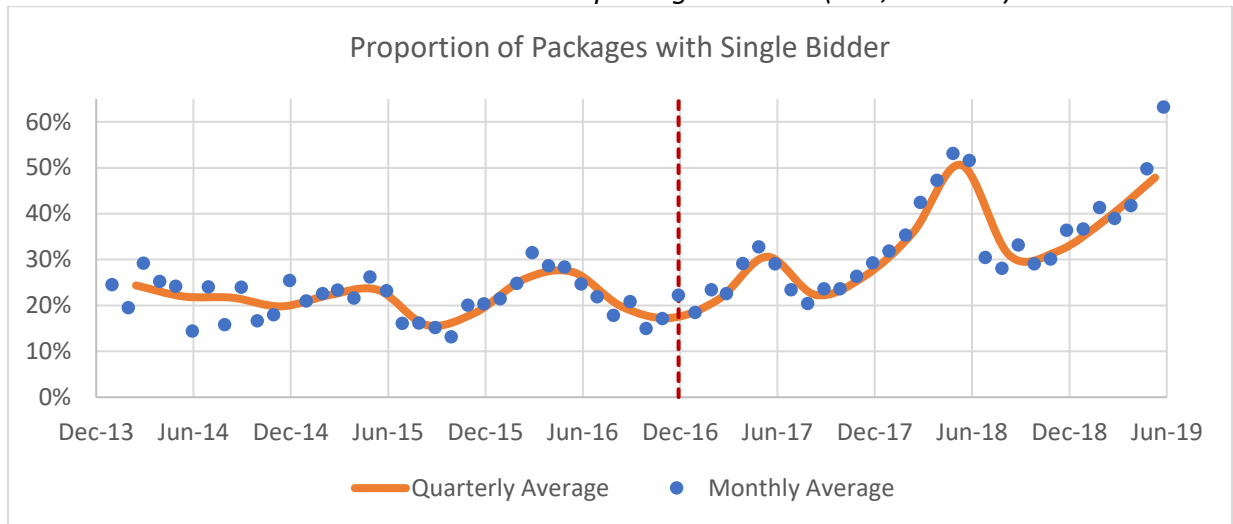


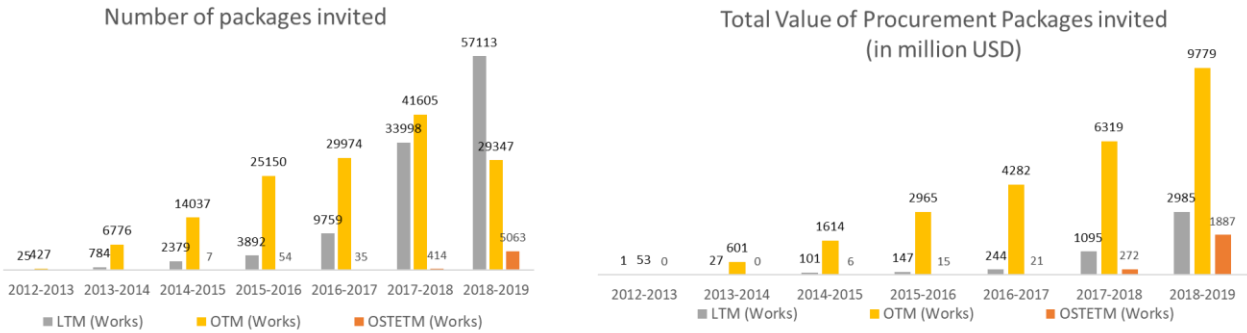
Figure 3.4: Rise of single bid
 Data Source: All OTM works packages in e-GP (135,179 Nos.)



As the situation favors larger bidders, a few bidders were able to capture the procurement market even if many of them do not have the capacity to simultaneously execute a large number of contracts. This has adversely affected the growth of the small and medium enterprises. During bidders’ interviews and focus group discussions, most of the small bidders said that they are informally purchasing/taking sub-contracts of the whole works from the larger bidders but that the work experience is not added to their profile.

Use of this $\pm 10\%$ mechanism is widely disliked. 67% of bidders (100% of small bidders) expressed a negative opinion of the 10-percent rule in the bidders’ survey. A majority of procuring officials also expressed a negative opinion of the 10-percent rule during interviews and focus group discussions. They also explained that they are avoiding the default OTM (NCT) method and increasingly adopting the LTM and OSTETM methods precisely in order to avoid $\pm 10\%$ rule. The following data analytics also clearly shows the rise in the use of the LTM and OSTETM methods after Dec 2016.

Figure 3.5: Rise of adoption of the LTM and OSTETM methods
(Data Source: All packages in e-GP)



Procuring Entity officials also expressed their opinion that the quality of works had not improved after imposition of the $\pm 10\%$ rule. This implies that the original intention of the GoB to give a reasonably good price to the contractors to complete works on time with good quality has not been achieved as expected; rather it has marginalized small bidders and distorted the public procurement market.

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	Price cap in national open tendering method-works (rejecting tenders more than 10% below or above the estimated cost) has not served the intended objective of improved quality and timely completion of works. Instead, it has distorted the market and reduced participation of bidders. For example, the average number of participants decreased from 4.2 to 2, submission of a single tender increased from 20% to 50% and large bidders are capturing the procurement market and marginalizing small bidders.	H	<ul style="list-style-type: none"> Remove $\pm 10\%$ cap from the national Open Tendering Method (NCT) for works. Undertake following alternative solutions to tackle the issue of abnormally low bids: <ul style="list-style-type: none"> Incorporate an abnormally low bid identification provision based on formula. Increase performance guarantee based on formula. Imposition of milestone-based liquidated damages to encourage timely completion of works contracts. Enhance contract management through electronic contract management of e-GP (with geo tagging). Adopt output and performance-based contracting where feasible

Note: Risk Rating – High (H), Substantial (S), Moderate (M), and Low (L)

Issue-2:

The Limited Tendering Method (LTM) for national works contracts up to BDT 30 million (approx. US\$ 0.36 million)³⁵ has a number of provisions, mentioned below, which are not consistent with international good procurement practices:

- (i) No past specific experience required, resulting in possibly poor-quality works;
- (ii) Bids rejected based on price cap (+/- 5%) which undermines price competition;
- (iii) Use of lottery to select the winning bidder in the case of tie. Data shows that, in 100% of cases, the winning bidder was selected through lottery.

It is to be noted that the above provisions were introduced in the PPA 2006 and PPR2008 in 2009 through an amendment mainly to encourage small and new bidders. Though the original reason of making these changes was to encourage small and new bidders, bidders' interviews revealed that most small bidders are not getting the intended advantage. This is mainly because of the high rate of participation in LTM tenders (i.e., 33 bidders per contract package in FY19). Besides, the probability of winning a contract is very low as all bidders quote a price at -5% of the estimated cost (unlike in the case of the OTM method, the official estimated cost is disclosed in case of LTM) and in 100% cases the award decision is based on lottery. Larger bidders can participate in more procurement processes, being in a position to provide the necessary bid security, thereby increasing their chance of winning a contract while small bidders, due to a shortage of capital, cannot participate in all packages. Moreover, the bid security is retained for all bidders until the winner signs the contract which also discourages participation by small bidders. Besides, the LTM method for works does not require a demonstration of past experience by the bidders and, taking advantage of this, larger bidders have created multiple firms in the name of their close relatives, and they participate in the same bidding process to increase the chance of winning the contract through lottery. It was also observed that the Law requires the enlistment of firms at the organization level in order to implement LTM tenders only with the enlisted firms. However, after implementation of e-GP this is not practiced in reality – all bidders registered in the e-GP system in a geographical area (e.g., district) can freely participate in the LTM tendering process. This has distorted the original purpose of the LTM method where bids needed to be invited from a number of qualified firms under specific circumstances.

There is, unsurprisingly, ample evidence of failed construction, delays and cost-overruns in LTM contracts which may also provide plenty of opportunities for corrupt practices. In the opinion of the PE officials and bidders during the interviews, this is mainly because LTM works contracts are awarded on the basis of chance, without looking into the capacity or experience of the bidder or not even based on a true reflection of the cost of performing the contract. It is to be noted that, after the introduction of the price cap and lottery, in all projects funded by the World Bank and the ADB, the financing agreements explicitly state that these provisions are not applicable under those projects while using the LTM method.

³⁵ Until the PPA 2006 was amended in 2016, the figure was approx. US\$ \$ 0.24 million (1 US \$= BDT 83).

SI	Substantive Gaps/Red Flags	Risk	Recommendations
1	Limited Tendering Method (LTM) for national works contract has a number of provisions like price cap, lottery to determine the winner in case of a tied bid and not requiring any experience to get the contract that are not consistent with international good procurement practices. These provisions have resulted failed constructions, delays and cost-overruns which may also provide plenty of opportunities for corrupt practices. These provisions were introduced in the PPA through 2009 amendment to encourage development of small and new bidders. However, bidders' interviews revealed that most of the small bidders are not getting the intended advantage.	H	<ul style="list-style-type: none"> Remove ± 5% cap and lottery from the Limited Tendering Method Assess how the Limited Tendering Method can be used to give preferential treatment to small and medium sized bidders/enterprises, women-led bidders/enterprises and startups Include definition of small and medium sized bidders/enterprises, women-led bidders/enterprises and startups in PPA/PPR and include this in the bidder registration process Update rules to include provisions for promoting SMEs, women-led enterprises and startups Introduce suppliers/contractors' development program Introduce annual enlistment of LTM bidders based on qualification/experience Early release of bid security of the bidders except the top three bidders Create a supplier database with unique identification of bidders and their beneficial owners. Track performance of the suppliers/contractors including specialized groups.

Note: Risk Rating – High (H), Substantial (S), Moderate (M), and Low (L)

Issue-3:

The debarment process leaves no space for independent review (the decision by the Head of the Procuring Entity is final) except by way of appeal to the judiciary. Rule 127 of the PPR provides some guidelines about the debarment process. However, there is a need for enhancement of the guidelines to (i) determine the length of debarment period for different types of misconducts, (ii) how to determine the extent of debarment – whether debarment applies to the entire country or for a particular organization, (iii) classify misdemeanours and variations of coverage for different infringers (individuals, companies, directors, agents, associated companies, etc.), and (iv) consider mitigating circumstances and rehabilitation of the infringer. In the absence of the detailed procedure/guidelines for debarment, procuring agencies are inconsistently implementing the provision of debarment in terms of duration and the extent of debarment.

Besides, there is a need for developing a protocol for sharing information and receiving feedback from the Anti-Corruption Commission (ACC) for instances of fraud and corruption.

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	<ul style="list-style-type: none"> Debarment process does not have any independent review Procuring agencies are inconsistently implementing the provision of debarment in-terms of duration and extent of debarment protocol for sharing and receiving feedback on fraud and corruption issues from the Anti-Corruption Commission (ACC) is not clear. 	H	<ul style="list-style-type: none"> Introduce independent debarment process. This can be similar to the current appeal mechanism for complaints by the Review Panel facilitated by CPTU. Introduce provision of temporary suspension by the HOPE. Prepare detailed guidelines on debarment procedures including protocol for sharing and receiving feedback on fraud and corruption issues from the Anti-Corruption Commission (ACC).

Indicator 2. Implementing regulations and tools support the legal framework

Findings

Sub-indicator 2(a) - Implementing regulations to define processes and procedures: The PPR 2008 contains legal operational procedures that supplement and provide detail to the provisions of the PPA 2006 and they are consistent with each other. The legal provisions are clear and comprehensive. CPTU is responsible for the maintenance of the regulations and this is clearly established in the PPA 2006. The rules are updated as needed. All documents, formats, guidance notes and other supporting policy guidelines are readily available and accessible at CPTU's website (www.cptu.gov.bd). These documents are all available in the English language, except for the PPA 2006 and PPR 2008 amendments which are available in the Bangla language only. The PPR 2008 English version is uploaded in the website as a "preliminary working draft" which needs to be finalized.

Sub-indicator 2(b) - Model procurement documents for goods, works and services: A range of standard tender documents based on thresholds, complexity and methods for goods, works, and services are available (in English) at the website of CPTU. A number of these documents are mentioned as "preliminary working drafts" even though these are widely in use. All STDs/SRFPs are used in practice and have been updated to take account of legislative amendments. The additional collaborative website set up to cater for e-GP provides has a similar list of e-STDs. All e-STDs for goods and works were adapted from the existing STDs for the purposes of electronic procurement. These documents are also listed as 'preliminary working drafts' even though

practically in use. This indicates that the tasks for finalization of STDs/SRFPs have been in progress for a long period. The standard e-tendering document (e-PW3) for OTM (NCT) works and e-PG3 for OTM (NCT) goods documents are harmonized with the World Bank and ADB requirements and are in use under projects funded by WB and ADB.

The materials are accessible at no cost and anyone can download the standard documents, use and customize those based on their own requirements (with the exception of the text & elements of the Instruction to Bidders (ITT) and the General Conditions of Contract (GCC) which are required to be used in their unaltered form). The model documents are updated by the CPTU based on any changes/ amendments that are made in the PPA 2006 and the PPR 2008. The standard documents also contain standard formats of tenders and conditions of contract which are consistent with internationally accepted practice. CPTU has recently translated a number STDs into Bangla based on the needs of small bidders. However, how the Bangla documents will be incorporated in the e-GP system is yet to be determined as the e-GP system runs in English.

Sub-indicator 2(c) - Standard contract conditions: The STDs/SRFPs referred to above contain both general and special conditions of contract (GCC & PCC) for the same range of contracts. These are aligned with the PPA 2006 and the PPR 2008, and largely based on the comparable documents of the World Bank, thus generally acceptable and consistent with international practices. The standard contract conditions (GCC) are pre-disclosed as part of the tender documents and subsequently become an integral part of the contracts signed with the successful bidder.

Sub-indicator 2(d)- User's guide or manual for procuring entities: There is no detailed procurement manual established for procurement in general. The PEs and bidders follow the necessary provisions set out in the PPA 2006 and the PPR 2008. However, it is to be mentioned that PPR 2008 is very elaborate and serves majority of the functions of a manual. A detailed user manual is under preparation by CPTU with the support of its capacity development consultant ITC-ILO.

CPTU developed comprehensive e-GP guidelines in 2011 clearly establishing the background; security aspects of the system; disclaimer responsibility of all related stakeholders and e-GP users of different levels in order to help the CPTU and the users, as the case may be, to operate and manage the system; maintenance of system's security; copyright; registration of organizations/Pes; selling of tenders; receipt of payment; uploading of tender security and performance security; preparation and processing of tenders (planning to contract signing) through the e-GP portal using e-GP functionalities in their own dashboards. This Users' Registration Manual (in Bangla and English) is available in the e-GP website (www.eprocure.gov.bd), though not updated reflecting the frequent changes in the system software. All of these documents are being updated to address the recent changes in the e-GP software and work process.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	Amendments of PPA 2006 and PPR 2008 are only available in Bangla making it difficult for the international bidders to understand the latest provisions.	M	Publish the consolidated PPA 2006 and PPR 2008 documents in English in CPTU website for international use.
2	A number of standard procurement documents have been in a preliminary draft stage for a long period	M	Finalize all standard/model procurement documents as listed in the PPR 2008.
3	Small bidders at the decentralized level are not sufficiently fluent in English to understand the requirements of the procurement documents	L	Finalize Bangla translated versions of the standard documents
4	Difficulty in understanding detailed provisions relating to the procurement and contract management processes	M	<ul style="list-style-type: none"> • Prepare procurement manual for Goods, Works and Services for all methods of procurement. • Develop a contract management manual
5	e-GP user manual and registration process published in the website are not updated incorporating the recent changes in the system	M	Update e-GP user manual and manual on registration process incorporating recent changes.

Note: Risk Rating – High (H), Substantial (S), Moderate (M), and Low (L)

Indicator 3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations

Findings

Sub-indicator 3(a) - Sustainable Public Procurement (SPP): Bangladesh has a national policy and strategy for sustainable development which the country has been pursuing for a long time. The most recent five-year plan (FYP16-20) focusses on productive employment for the growing labour force and a substantial increase in investment. Other key elements of the plan are to ensure good governance and pursue for an environmentally sustainable and socially inclusive development process. In addition, Sustainable Development Goals (SDG) has a target for implementation of sustainable procurement (Goal 12.7). However, sustainable public procurement has not yet found its way into the public procurement legislation and practice. Interviews reveal that environmental requirements and life cycle costing have been used by some procuring entities, but this is as part of their practice, rather than a part of applicable legislation. Emphasis has, up to now, been given very much to awarding contracts based on the lowest evaluated price.

Sustainability issues are part of the Government’s Vision 2021, and there is interest in the government in applying sustainable procurement principles. This is demonstrated in the amendments currently being considered and proposed to the Bangladesh Public Procurement Authority Act (BPPA). i.e., "Sustainable Procurement: In order to ensure sustainable procurement, Procuring Entities shall, in the prescribed manner, take into account social, economic and environmental issues and shall incorporate them in the procurement process."

The law along with the above provision is expected to be approved in the Parliament within 2020. Appropriate provisions need to be included in the PPR 2008 and standard bidding documents including provision for maintaining environmental and social safeguard during construction, preferential treatment to high energy efficient or low carbon emitting products etc. Some examples of sustainable procurement practices are given in the following box.

Box 1: Examples of sustainable procurement practices		
<i>Scheme</i>	<i>Method</i>	<i>Actions associated with methods</i>
Reservation	Set aside	Allow only enterprises that have prescribed characteristics to compete for contract. e.g., % reserved for women enterprises, SMEs, startups
	Qualification criteria	Exclude firms that cannot meet specific requirement or norm of the policy objective – use of vetted supplier lists
	Contract obligation	Make a policy objective a contractual condition e.g., 20% of the works shall be subcontracted to women enterprises or SMEs or startups
Preferencing	Preference at shortlisting/enlistment stage	Limit number of suppliers to be invited based on qualification and weight given to policy objective. e.g., at least one start-up or women enterprise in the list
	Award criteria	Give weighting to policy objective. e.g., 80% price and 20% to policy objective. Monetize policy objective and add to price. e.g, use of life cycle costs.
Indirect	Product/service specification	State requirement in product or service, e.g., use ecolabels
	Design specification or contract conditions to suit particular group/address particular issue	Design specifications to suit particular group or address particular issue. e.g., use of gas burnt bricks in construction instead of coal or wood burnt bricks.
Supply Side	General assistance	Provide support for targeted group to compete for business without giving favorable conditions or preferences. e.g., training bidders in bid preparation

Sub-indicator 3(b) - Obligations deriving from international agreements: Bangladesh is a member of World Trade Organization (WTO) and signatory of some regional trade agreements, such as the South Asia Free Trade Agreement (SAFTA). However, it has not signed the GPA of WTO. Bangladesh is currently not subject to any strict public procurement related obligations deriving from binding of international agreements. However, since its accession to the United Nations Convention on Anti-Corruption Commission and Ratification in 2007, the country's symbolic commitment was expressed to take steps for effective reforms to promote good governance and fight corruption in compliance with international standards. Bangladesh's procurement legislation is mostly aligned with the UNCAC procurement requirements and also the GPA and UNCITRAL. Bangladesh's procurement legislation has provision to follow applicable procurement procedure mentioned in the financing agreement with the development partners like the World Bank or the ADB.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	<ul style="list-style-type: none"> • Sustainable public procurement has not yet found its way into the public procurement legislation and practices. • Awarding contracts on the basis of lowest cost may not always be the right choice to ensure high quality goods/works including energy efficient/low carbon emitting/sustainable goods and works. 	S	<ul style="list-style-type: none"> • Prepare a policy document with detailed implementation road map for sustainable procurement. • Include provision of sustainable procurement in the PPA 2006 and PPR 2008. • Include provision of evaluating bids on the basis of "most advantageous bid" instead of the current "lowest evaluated bid" to facilitate preferential treatment to high quality goods/works including energy efficient/low carbon emitting products, sustainable goods and works. • Update the relevant standard tender documents with provisions of sustainable procurement including maintaining environmental and social safeguard during construction. • Prepare guidance note on sustainable procurement explaining applicability and procedure for using sustainability considerations in procurement
2	Often audit objections are made for not selecting the so-called lowest bidder based on the quoted price, even though the bidder is technically not qualified. Due to the capacity constraint of	S	<ul style="list-style-type: none"> • Scale up procurement training for the auditors with appropriate course content

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
	<p>the auditors in terms of understanding procurement provisions, awarding contract based on most advantageous bid may increase audit objections. This in-turn may demotivate procurement practitioners from using this provision.</p>		

Note: Risk Rating – High (H), Substantial (S), Moderate (M), and Low (L)

3.2 Pillar II - Institutional Framework and Management Capacity

Bangladesh has a well-functioning nodal procurement policy agency, the Central Procurement Technical Unit (CPTU). CPTU was established in 2002 under the Implementation Monitoring and Evaluation Division (IMED) of the Ministry of Planning (MOP) to carry out procurement reform activities and regulate and monitor the country's public procurement functions. It is planned to be converted into an independent government agency to be known as the 'Bangladesh Public Procurement Authority (BPPA)' to facilitate enhanced autonomy in executing its functions. It will be done through a separate act, Bangladesh Public Procurement Authority Act. The act has been drafted and widely consulted and now at the final stage of placement in the parliament for approval.

Overall Strengths:

- CPTU has clear mandate to carry out public procurement reform and implementation of the reform agenda (being transformed to Authority).
- Large procuring agencies are well organized, procurement functions are largely decentralized, and procuring entities' functions are legally defined.
- An institutionalized procurement capacity building program is in place.
- e-GP generates KPI based procurement reports.
- The medium term rolling budgetary framework (MTBF) provides indicative budget for procurement organizations for 3 years which helps agencies to plan their procurement.
- An integrated budget and accounting system (iBAS ++) system in place and helps budget control and management.
- Average days for payment to the contractors is mostly within acceptable limit. (Survey result: 77% responded bidders received payment within 30 days of bill submission)
- CPTU has recently developed and soft launched a citizen portal to disseminate procurement and contract management data following the Open Contracting Data Standard (OCDS). The portal has facilities for data analytics based on key performance indicators.

Overall Weaknesses:

- CPTU is constrained by its capacity in terms of legal structure, autonomy in decision making, limited staffing, and inadequate analytical and research capability. It largely depends on external experts and outsourced firms which is inadequate to regulate and monitor public procurement for more than 1300 organizations..
- Procurement data analytics not systematically used for policy formulation.
- Absence of data capture through open data format.
- Proper integration of public procurement into the financial management system yet to take place. e-GP system does not yet have an interface with the iBAS++ system resulting in disconnect between procurement value with the budget and real expenditure.
- Procurement performance is not generally part of results agreement of the Procuring Entities/Agencies/Ministries and therefore does not contribute to career advancement.
- Less recognition of 'procurement' as a professional service.
- Legal provision on advance procurement planning is absent, though practiced by some PEs, but feel discouraged.

Indicator 4. The public procurement system is mainstreamed and well-integrated with the public financial management system

Findings

Sub-indicator 4(a) - Procurement planning and the budget cycle: The MOF has introduced a medium term rolling budgetary framework (MTBF) which provides an indicative budget for each procuring organization for a period of 3 years. The MTBF still doesn't seem to have strong linkage with the sectoral strategy and procurement planning. Ministry of Planning is responsible for sectoral distribution of development resources by way of allocating the resources to different approved projects and/or programs based on sectoral objectives and based on aggregated sectoral demand. However, in most cases, the aggregated demand does not match with the received budget allocation and therefore procurement contracts are now planned based on the availability of the resources (excluding the development projects).

Under the MTBF, Budget presents an estimate of expenditure for a budget year and the two following fiscal years by way of economic, functional and administrative classifications, but these estimates do not appear to be based on the stated procurement estimates of PEs as stated above. A Ministry of Finance (MoF) committee (the Budget Monitoring and Resources Committee) used to determine the ceilings for the current and subsequent 2 (two) fiscal years by reflecting the annually updated macro fiscal framework. Whilst the ceilings take account of government priorities and a ministry's policy documents, it appears that there is limited evidence of established linkages between planning documents and strategies, and the determination of the budget ceilings (PEFA 2016 assessment, indicator PL-16.2). Further, according to the PEFA 2016 assessment (Indicator PL-16.4), the budget framework forecasts for many ministries are used as a guide for the next year's ceiling for both the development and non-development budget. Budget allocations tend to be based on the previous years' budget with, in some cases (based on interviews conducted), increments of around 10%. "It cannot be said that the budget process allows for reconciliation of the budget ceilings with a ministry's costed budget based on strategic plans" (PEFA 2016 assessment, indicator PL-16.2).

The PPA 2006 and the PPR 2008 require preparation of a total procurement plan (TPP) for the development project for the entire duration of the project and revenue schemes. Based on the approved TPP in both cases, an Annual Procurement Plan (APP) for yearly utilization of budget allocation is prepared by the PE. These are based on defined cost estimates of procurement packages/contracts but, as indicated above, not generally fed into the budget allocation process. The APPs are generally prepared after the budget allocation is confirmed. The fund allocation and procurement plan are approved by the Head of the Procuring Entity (HOPE) and these are adjusted according to the expected flow of fund and progress of contract implementation. The legal framework provides that APPs should be published at the beginning of each financial year in the websites of the executing/implementing agencies, but this is not always followed by PEs. APPs are also required to be published at the CPTU's website, but no such compliance was observed. However, all Procurement Plans involving e-GP contracts are published in the e-GP portal of CPTU. CPTU has recently updated the procurement planning module to upload the

entire annual procurement plan in e-GP portal irrespective of whether the procurement will be processed through e-GP or not. Enforcement of this provision needs to be ensured.

The preparation of the APP at the beginning of the FY is mandatory. A PE needs to invite tenders only after the APP is approved with procurement packages/lots. Procurement activities start in general only after the budget allocation letter is received by the PEs. The timeliness of the release of budget allocation from the Ministry of Finance (MOF) has now improved; however, the process of getting the official budget allocation letter which includes a breakdown by economic codes still takes about 2 months. The situation is exacerbated if the budget allocation is increased or cut down during the budget revision process. In practice, most PEs have only around two months after any increase of allocation in the revised budget for the award of new contracts which leads them to adopt ad-hoc and sometimes meaningless procurement planning.

There is a feedback mechanism for the certification of budget execution, including information on the physical and financial progress of projects, along with the latest status of completion of major contracts, and re-adjustment of allocation. The ministry usually holds a review meeting almost every month, to review the progress of utilization of allocated resources. In addition, there is a fast track review committee headed by the chief executive of the government to review and guide the contract execution of flagships projects. However, before the normal budget revision process is initiated, usually no feedback is provided to the Finance Division (FD). The Implementation Monitoring and Evaluation division (IMED) established a feedback mechanism of quarterly progress tracking of budget utilization and aggregation of total expenditure and the IMED used to report to GoB for necessary directives. It is expected that using the newly introduced budget and account system (iBAS++) will facilitate better budget estimates through the online tracking system.

Sub-indicator 4(b) - Financial procedures and the procurement cycle: The country's procurement legislation mandates the PE to prepare the Annual Procurement Plan (APP) based on the budget allocation. Unless the APP with the procurement package (s) /contract (s) is approved, no solicitation/invitation of tenders/proposals can take place [see assessment outcome of 4(a) also]. On the other hand, the APP is generally prepared after the PE has confirmed that the government order has been issued regarding the budget allocation. The legal practice is that the HOPE approves the APP only after confirmation of the budget allocation and approval of distribution of budget containing the economic codes. Therefore, any delay in receipt of the budget allocation perceptibly delays the initiation of the tendering process. Normally the gap between approval of the national budget and confirmation of the budget to the PE is about two months – the delay is mostly happening at the line ministry level

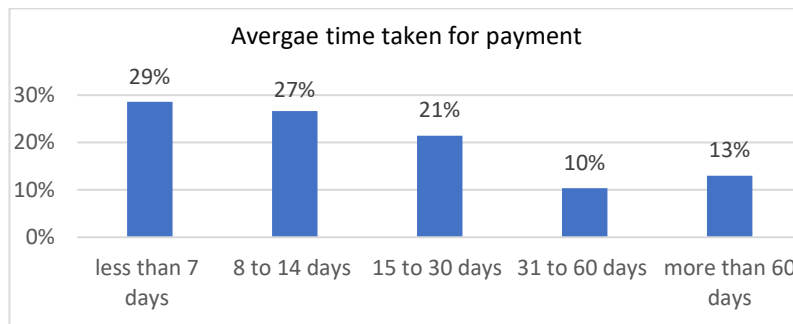
To save time and to avoid this delay in tender processing, a practice in some PEs has arisen which is known to be 'advance procurement', where the PEs process procurement for the packages already included in the approved project for which budget allocation for a fiscal year is sought. Since 'advance procurement' procedures have not been included in the procurement legislation, the PEs do not usually seek approval of the contract as the Delegation of Financial Power (DOFP) provisions seek to ensure that budget allocation for a particular FY has already been made for

the contract before approval of the bid evaluation report. Even if approval is accorded, PEs refrain from issuing a notification of award to avoid the likely risk of not getting the budget. Nevertheless, advance planning and processing of procurement succeeds in saving time even though it raises legal concerns.

There are procedures for processing invoices and authorization of payments in the country system and these are followed in practice. However, these are not publicly available or clear to many potential bidders. Whilst PEs generally claim that they follow the contractual provisions on invoicing and payment based on the national procedures, and pay the invoices in a timely manner, this works only if they have had the budget allocation to cover that payment (raising again the problem of integration with financial management). This problem is likely to be solved with the rolling out of electronic contract management and payment system (e-CMS) and its integration with iBAS++ system for budget and accounting.

Average days for payment to the contractors is mostly within acceptable limit. (Survey result: 77% responded said getting payment within 30 days of bill submission)

Figure 3.6: Average payment time in procurement business



A number of bidders during interviews claimed that there were significant payment delays, and the delay occurred in two ways: (i) delay in approval of invoices at PE level, and (ii) delay in the pre-audit check at the accounts officer level. There is no on-line mechanism to capture average payment time. MoF has recently developed and operationalized a new software system called iBAS++ which manages the payment transactions – but the system only calculates payment processing time from the point at which an invoice is approved at the PE level and inserted in the iBAS++ software for payment. It does not take into account the time taken by the PE from receiving of the invoice to approval. The latter is to be recorded in the e-CMS module of the e-GP. Integration between these two systems is necessary to get the full picture. It is observed that once the approval has been obtained on the invoice, payment against the approved invoice is rapid. The delay usually takes place between submission of the invoice and the final approval.

Substantive Gaps and Recommendations:

SI	Substantive Gaps/Red Flags	Risk	Recommendations
1	<ul style="list-style-type: none"> Proper integration of public procurement into the financial management system yet to take place. e-GP system does not yet have an interface with the iBAS++ system resulting-in disconnect between procurement value with the budget and real expenditure No system in place to track timeliness of payment 	H	<ul style="list-style-type: none"> Connect e-GP with iBAS++ to facilitate – (i) real time capturing of budget utilization, procurement commitment and procurement expenditure; (ii) monitoring and tracking of payment Ensure generation of reports on payment delay (at national/agency/project/PE level) from the iBAS++ system monitor the regular payment of bills to minimize the gap between submission of bill until the final payment.
2	e-GP procurement planning module does not cover non e-GP procurement packages resulting difficulties to account the total number and value of procurements at agency and national level.	S	<ul style="list-style-type: none"> Enhance existing e-GP procurement planning module to upload annual procurement plan covering e-GP and non e-GP procurements. insert provision in the e-GP Guidelines/PPR 2008 to ensure mandatory uploading of all procurement packages in e-GP procurement plan of a PE or project as applicable.
3	There is no legal provision on advance procurement resulting in delay in implementing development program	M	Include advance procurement procedure in the procurement legislation
4	Absence of provision of procurement planning more than a year (except development projects)	S	Include provision in the legislation for mid-term strategic procurement plan
5	There is a 2 months gap on an average between the approval of national budget and confirmation (availability) of the budget at the PE level resulting delay in initiating procurement	S	Reduce the time gap between national budget and availability of the budget at PE level

Note: Risk Rating – High (H), Substantial (S), Moderate (M), and Low (L)

Indicator 5. The country has an institution in charge of the normative/ regulatory function

Findings

Sub-indicator 5(a) - Status and legal basis of the normative/regulatory institution function: PPA 2006 specifies CPTU as the normative/regulatory body to regulate public procurement in Bangladesh. Whilst, to date, it has been a technical 'Unit' of IMED, it is in the process of being transformed into an independent statutory body to be known as the 'Bangladesh Public Procurement Authority (BPPA)' through enactment of 'Bangladesh Public Procurement Authority Act'. Main functions of CPTU is mentioned below in the (Box-1):

Box-2: Main responsibilities of CPTU

- Supervise and regulate compliance with the procurement laws;
- Prepare amendment of PPA 2006 and PPR 2008;
- Develop and issue STDs and relevant templates;
- Interpretation and implementation of procurement laws without influencing procurement processing;
- Prepare report regarding the effectiveness of public procurement process with recommendations for improvements;
- Design, operate and maintain national e-GP system;
- Carry out procurement capacity building training;
- Carry out procurement compliance audit;
- Prepare and maintain a list of experts and adjudicators for facilitation of settlement of procurement disputes;
- Provide necessary support to complaint review panel;
- Hold an annual forum for consultations on public procurement; and
- Promote awareness on compliance of procurement laws.

Sub-indicator 5(b) - Responsibilities of the normative/regulatory function: CPTU is mandated for all responsibilities mentioned in the assessment criteria as mentioned above in Box-1. With the introduction of BPPA, its responsibility is to be enhanced further including facilitating citizens in procurement/contract implementation monitoring, sustainable procurement, data analytics etc.

Sub-indicator 5(c)- Organization, funding, staffing, and level of independence and authority: CPTU is a unit of the IMED and, as such, may be seen to be rather low in the administrative hierarchy, even though the unit is headed by a Director General with the rank and status of additional/joint secretary. Nevertheless, it is regarded as a strategically important organization and well respected throughout the country as an active actor in dealing with legal procurement matters since it came into being in 2002. As a government entity, CPTU's funding is met under the budget of IMED. Though the CPTU generates enough funds from the e-GP system's

earnings³⁶, it can neither decide on its budget allocation, nor the size of its own budget. It can propose and discuss its requirements with the IMED but has limitations as a subordinate office. The proposed BPPA will receive funds directly from the government and other sources based on an annual budget statement to be submitted to the government.

The CPTU is heavily dependent on consultants, even in the case of formulating any expert opinion to stakeholders. In many cases, CPTU's and the Review Panel's decisions have been challenged in the courts but the CPTU does not usually respond and place its legal opinion before the court because of the lack of a legal expert or panel. Except for some technical positions (e.g. senior system analyst, system analyst, maintenance engineer, programmer, and some computer operators), almost all posts of CPTU are manned by the secondment of officials from the civil service. There is a mix of professional and non-professional personnel. Operation and maintenance of the e-GP system and data centre now depends on external experts. As per the PPA 2006, CPTU has the mandate to regulate and monitor public procurement for more than 1300 organizations. Given such a gigantic mandate, combined with the recent exponential growth in the usage of e-GP, CPTU is constrained by its capacity in terms of its current legal structure, limited staffing, and inadequate analytical and research capability. In this context, a detailed strategic framework study was conducted in 2016. Based on its recommendations, CPTU is in the process transforming into the Bangladesh Public Procurement Authority (BPPA) which will provide it with greater autonomy and administrative and financial authority commensurate with its functions and responsibilities.

Sub-indicator 5(d) - Avoiding conflict of interest: In order to avoid a potential situation of conflict of interest, PPR 2008 clearly defines CPTU's role by stating that 'unless otherwise directed by its controlling authority, the CPTU shall not provide an opinion on any specific procurement or contract or get involved in any specific procurement'. Notwithstanding the role given to the CPTU by the PPA 2006 and PPR 2008 where it is clearly stated that, only for the purpose of removing any complication in giving effect to any provision of the PPA 2006 on account of any ambiguity occurring in such provision, may the government (in this case CPTU), by notification in the official gazette, issue a direction, clarifying or in interpreting such provisions, as to how such matters shall be dealt with, CPTU has been providing legal interpretations/clarifications including on ongoing procurement process.

However, there is no record of publication of such interpretations/clarifications in the official gazette.

³⁶ e-GP is running on a self-sustainable model. It generates funds through registration and renewal of registration fees for the firms and nominal fees taken from the bidders to participate in a tendering process.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	CPTU is constrained by its capacity in terms of legal structure, lack of autonomy in decision making, limited staffing, and inadequate analytical and research capability. It largely depends on external experts and outsourced firms which is inadequate to regulate and monitor public procurement for more than 1300 organizations.	H	Prioritize formation of proposed Bangladesh Public Procurement Authority (BPPA). Develop in-house institutional and technical capacity of BPPA (with a set of qualified, experienced and adequate number of trained officials). Gradually lessen dependency on external support.
2	Legal interpretations and clarifications provided by CPTU are not published in official gazette as required by the legislation	M	Publish compilation of interpretations and clarifications provided by CPTU in official gazette

Indicator 6. Procuring entities and their mandates are clearly defined

Findings

Sub-indicator 6(a) - Definition, responsibilities and formal powers of procuring entities: The Procurement Act and Rules clearly define the ‘procuring entity’ as an authority having administrative and financial power to undertake the procurement of goods, works or services using public funds. It includes responsibility and competency for decision making on procurement document preparation, advertisement, selling of bid documents, receipt of bids, opening, evaluation, approval, award and sign contract and contract administration and management. Procurement legislation clearly identifies the approving authority of the contract which must be in accordance with the delegation of financial power. In fact, there is no requirement for the establishment of any central procurement structure to carry out procurement functions nationally as the procurement functions are fully decentralised to the operating units (the PEs) of an agency. In every large agency, procurement functions are well organized within their own administrative structural framework. For the larger procuring entities with substantial procurement functions, there are designated procurement units or structures at the headquarters and other subordinate hierarchical levels. But the primary responsibility for procurement rests with identified individuals (who are supported by competent staff within their offices) depending on the identity of the operating unit and the value of the procurement. These individuals are generally executive engineers, assistant engineers, procurement officers, project directors, project managers or any other officers assigned procurement functions. Statistics from the e-GP system shows that, to date, there are 8,668 Procuring Entities (PEs) registered under 1325 procuring organizations, and all are designated by rules for the procurement of small, medium or big contracts. It is thus very difficult to get the statistics of the share of total PEs having designated and specialized procurement unit/functions. However, all large organizations (32 organizations covering more

than 80% of national budget for procurement) have dedicated procurement units with qualified staffs.

PPR 2008 clearly defines the responsibility and formation of bid/proposal evaluation committees depending on thresholds. It requires having external member(s) in the bid/proposal evaluation committee to increase transparency which is adhered.

For the most part, power for approval of contracts/bid evaluation reports lies with the Head of the Procuring Entity (HOPE) or head of the agency, Project Director (PD) or Project Manager. Large contracts (bid evaluation reports/draft negotiated contracts) require approval at the concerned Minister level (in the case of contracts between US\$ 6 and 12 million for goods and works) or Cabinet Committee on Government Purchase (CCGP) level (in the case of contracts with a value of US\$ 12 million or higher). e-GP data shows that contracts approved at the procuring agency level take on an average 3 days to get approval from the appropriate approving authority within the organization after submission of the bid evaluation report. However, in the case of high value contracts that go to the concerned ministry or CCGP for approval, the timing is on an average 45 days for ministry level approval and 60 days for CCGP level approval³⁷. It is to be noted that the cases going to the CCGP are routed through the concerned ministry of the procuring agency and a major part of the time is spent at the ministry level for reviewing the documents and finalizing the case summary for CCGP. The DOFP also allows an approving authority to sub-delegate its power to its subordinate offices for quick decision-making. However, in practice, it is seldom followed. There is a tendency of risk avoidance and thereby officials with appropriate delegation of financial power, in practice, often forward the decision to the higher authority resulting delay in the procurement process.

Sub-indicator 6(b) - Centralized procurement body: There is no centralised procurement agency in place to conduct procurement. The procurement function is mostly decentralized to increase responsiveness of the system to meet demand at the ground level and therefore the GoB has no plan to create a new organization to conduct procurement centrally. This policy results in too many small value procurement packages for the same item/activity even within the same organization. However, efficiency and cost savings can be achieved through procuring commonly required items or recurring procurement for examples stationery, computers and accessories, office equipment, printers and toner, essential medicines, vaccines, medical consumables etc. through framework agreements at the level of the organization or ministry following the already existing provisions of the PPR2008. This provision currently is little used. CPTU has recently prepared and uploaded in its website a standard procurement document for Framework Agreements. However, an e-GP module for framework agreements including subsequent call-off contracts and provision for electronic catalogues will be necessary to take the full advantage of this provision. Besides, the provision for electronic catalogues needs to be included in the legal framework (PPA2006, PPR2008 and e-GP guidelines). It will also require CPTU to prepare and populate a guidance note on using framework agreements and electronic catalogues.

³⁷ Data source – large value contracts under the World Bank funded projects in FY18 and FY19

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	Approval of large value procurements' bid evaluation report at the ministry and CCGP level takes on an average 45 days and 60 days respectively from the date of receipt of the bid evaluation report causing delay in implementation of development projects.	H	<ul style="list-style-type: none"> • Increase procurement approval thresholds at the agency and ministry level with enhanced accountability mechanism • Monitor compliance of the detailed procurement timeline given in PPR2008
2	There is tendency of risk avoidance-officials with appropriate delegation of financial power in practice often forward the decision to the higher authority resulting delay in procurement process	M	Hardwire the provision of appropriate approving authority in e-GP so that it cannot be forwarded to a higher authority without identifying proper justification and monitor compliance through reports generated in e-GP
3	Too many small value standard procurements for commonly required and recurring products like stationery, computers and accessories, office equipment, printers and toner, medicines, vaccines, medical consumables etc. resulting in huge transaction effort and costs	H	<ul style="list-style-type: none"> • Adopt framework agreements at the level of the organization or ministry • Develop e-GP module for framework agreements and electronic catalogues/ e-market place • Develop guideline on using framework agreements • Include provision for electronic catalogues and e-market place in PPR2008/PPA2006 • Create a centralized procurement body at the central or regional level to procure commonly required items

Indicator 7. Public procurement is embedded in an effective information system

Findings

Sub-indicator 7(a) - Publication of public procurement information supported by information technology: CPTU operates two websites, www.cptu.gov.bd & www.eprocure.gov.bd which provide one-stop services to all stakeholders with relevant public procurement information. The legal framework clearly assigns the responsibility of developing and managing the websites and e-GP system to CPTU including publication of information and necessary updating of the portals.

The first website provides all the information and documents related to the legal framework (the PPA 2006 & the PPR 2008, their amendments, STDs/RFPS and other guidance notes and circulars) as well as the list of debarred bidders, contract notices and contract information, information related to the results of bidders' complaints and appeal decisions of review panels, etc. It also publishes annual procurement plans and 42 key performance indicators based on quarterly procurement performance statistics. The KPI based results are 'automatically' generated from the PROMIS module which is now integrated within the e-GP system. CPTU's web portals are regularly updated and easily accessible to the public.

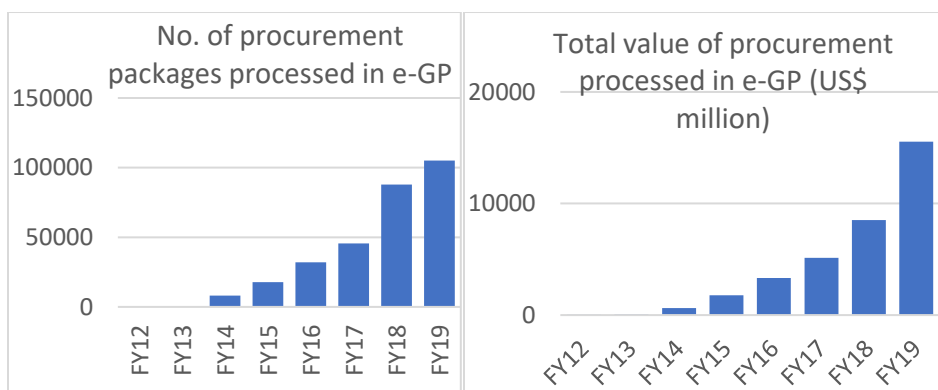
The e-GP portal is the centralized online procurement system of the country that covers the entire cycle of procurement starting from procurement planning to payment processing including tender document preparation, electronic bid security by commercial banks, e-tendering, bid evaluation and approval and online contract management. It also covers an online registration process for the firms. All necessary flow charts for user registration and user manuals are also published here. The portal has help desk functionality which operates 24X7 and is connected at the backend to trained operators managed by CPTU through an outsourced firm. 100% of procurement plans in e-GP are automatically published. However, until now the procurement plans in e-GP do not contain procurement activities which are processed following the traditional manual procurement process (i.e., international procurements, consultancy services and direct procurements). 100% of specific procurement notices (bid invitations) and contract award information is also published and accessible to the public free of cost. These notices follow standard formats containing adequate information for the bidders. Bidding documents can be viewed free of cost by registered bidders in the e-GP system. However, a bidder needs to provide a nominal fee online (maximum US\$20) to participate in a specific procurement process. e-GP portal also publishes a number of statistics including reports based on key performance indicators. Further integration of the e-GP system with the integrated budget and accounting system (iBAS++), tax and VAT system, project management information system (PMIS) and national ID system are required to get the full benefit of integrated information system. Firm hiring process is ongoing to connect e-GP with project management information system (PMIS). The other integrations are still at the planning stage.

Recently, a citizen portal has been developed and soft launched for testing, it will be fully launched for the general public by FY20. This portal is connected with the e-GP system including the recently developed electronic contract management and payment module and publishes procurement and contract management data following the open contracting data standard (OCDS). It also has features like searching and sorting of procurement data across the country based on all possible variables of procurement and contract management (e.g., agency, procuring entity, location, processing time, type of procurement, competition, whether contracts completed on time and cost, milestones, completion and payment etc.) and generates corresponding charts to visualize the data. Once fully launched, this portal will facilitate benchmarking among the organizations' procuring entities and will also provide data analytics support to researchers and policy makers. Any citizen can also find out any activity of interest or discover the activities happening in their locality, including their performance. It also has feature

to show construction sites or places of the contract performance in a map along with key procurement statistics

Sub-indicator 7(b) - Use of e-Procurement: As of FY19, out of 1362 procuring organizations in Bangladesh, 1325 organizations with 8,668 procuring entities (PEs) have adopted the e-GP system including at the lowest and most decentralized tier of administration. The number of firms registered in the system as of FY19 is 65,559. In FY 19, e-GP processed 62% of total US\$ 24 billion public procurement expenditure of Bangladesh. This includes goods and works procurements following national competitive bidding (one envelope and two envelope), limited tendering method and request for quotations. International procurements and consultancy services are not yet processed through e-GP. Development of these modules is at the final stage. In FY19, a total of 104,988 procurement packages were processed through e-GP across the country. The following charts demonstrate the rapid uptake of e-GP in Bangladesh:

Figure 3.7: Rapid uptake of e-GP

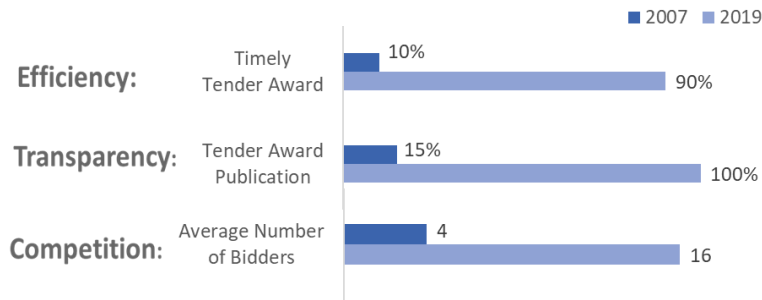


The e-GP portal has been planned, developed and managed by CPTU with the support of in-house staff and outsourced vendors. CPTU through an outsourced vendor also runs an e-GP help desk with 24X7 service time.

As a result of the e-GP implementation, an estimated US\$ 600 million has been saved in between 2012 and 2018³⁸. Average procurement time (invitation to contract signing) decreased from 93 to 59 days in case of OTM Works from FY11 to FY19. According to the bidder survey and PE survey, the bidding environment has also improved significantly compared to manual (paper-based) tenders. Further, market access has also increased as evidenced by increased number of bidders per package as shown below:

³⁸ Evaluating the Impact of e-Procurement in Bangladesh, the World Bank, 2019

Figure 3.8: Impact of e-GP



Before the introduction of e-GP, bidders from a geographical area generally participated in procurement process only within that area. However, e-GP has changed the scenario with a significant increase of non-local winners (a bidder winning contract in another district from its home district) as shown below:

Figure 3.9: Reduction of single bid and increase of non-local winner in e-GP

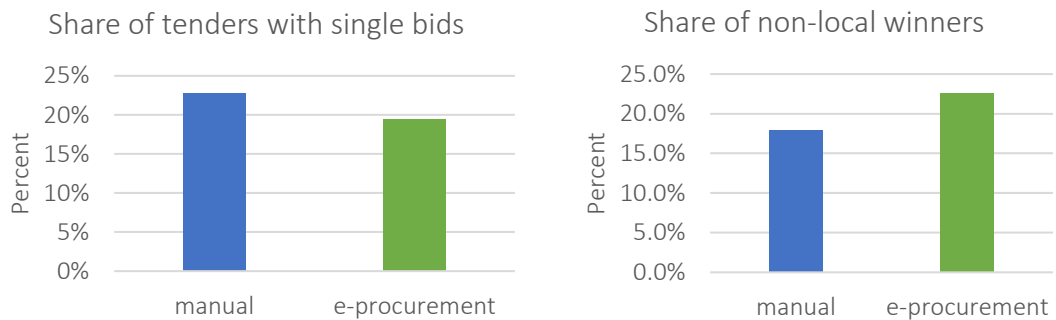
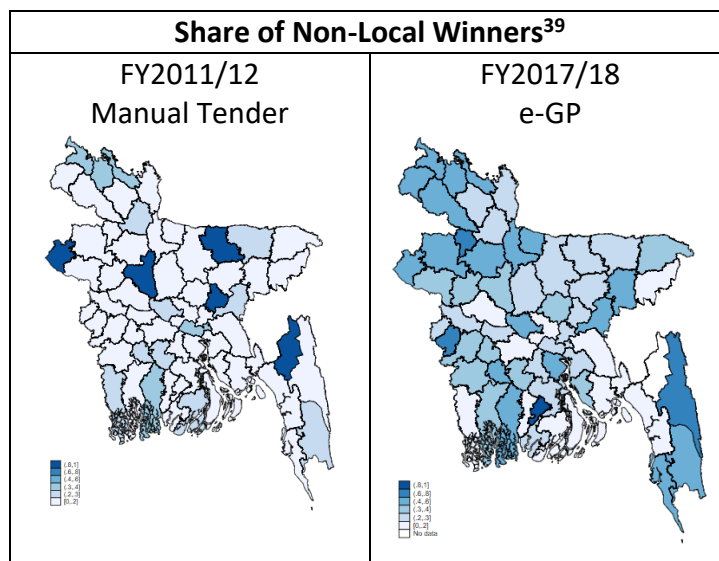


Figure 3.10: Comparison of distribution of non-local winner in e-GP and manual tender



³⁹ Number of Observations: 17,648 matching procurement packages of manual and e-GP tenders

The introduction of e-GP was accompanied by an extensive capacity building program by way of imparting direct hands-on on-line technical training using a mock training server (www.training.eprocure.gov.bd), and preparing master trainers in 4 pilot agencies. The training program later expanded to cope with the demand and rapid rise of e-tendering. All participants, after such organized training, are now able to log-in to the mock server and practice with the user password they were given during e-GP training. So far, as many as 20,000 users (payment service provider, PE officials, bidders) have been trained on e-GP from FY12 to FY19. The effort is ongoing under the DIMAPP project funded by the World Bank. As a result of the wide training and campaign, an increasing number of government officials became aware of e-GP and were assigned responsibility for the processing of e-tenders. The private sector (large, medium and small bidders) is using the e-tendering process and has also developed capacity. However, as indicated in the bidder survey and focus group discussions, more training is required for small and new bidders.

Sub-indicator 7(c) - Strategies to manage procurement data: Procurement processing in Bangladesh is delegated to a large number of procuring entities (more than 10,000) across the country. There is no data management system to capture the procurement data covering all procuring entities including e-GP and manual procurements. However, the e-GP system captures a huge amount of procurement data throughout the procurement cycle. As the penetration of e-GP is about 62% of public procurement expenditure of the country as of FY19, the data that the system generates is rich enough to conduct strategic data analysis in order to improve procurement performance of the country to achieve value for money. Currently, the e-GP system generates KPI based reports with 42 indicators. However, this report is not adequate to systematically analyse data. Only CPTU can generate reports taking data from the system. But the process is time consuming and labour intensive as programmers need to run codes to extract the data from the server. There is no standard data extraction template built within the system.

The recently developed citizen portal which extracts data from the e-GP system, has features like searching for and sorting procurement data across the country based on all possible variables of procurement and contract management (e.g., agency, procuring entity, location, processing time, type of procurement, competition, whether contracts completed on time and cost, milestones, completion and payment etc.) and generates corresponding charts to visualize the data. Once fully launched, this portal will facilitate benchmarking among the organizations' procuring entities and will also provide data analytics support to researchers and policy makers. Development of a more advanced data dashboard and reporting module is planned as part of the e-GP enhancement work for which a firm hiring process has been concluded recently. This dashboard will be internal to the e-GP user at different levels including policy makers. The dashboard will produce reports and data as provided for in the citizen portal and, in addition, will also produce reports on red flags and other confidential information.

The CPTU has an in-house capacity constraint for data analytics and research. Procurement data analytics in general is not used for policy formulation. The proposed BPPA has a data analytics and research wing within the proposed organogram which will facilitate extensive research on procurement data and thereby enhance procurement performance and take policy decisions

based on evidence. However, there is a need for preparing a comprehensive strategic plan for procurement data management and analytics.

Procurement volume of the country in 2019 was approximately US\$ 24.1 billion⁴⁰ which accounts for 45.2% of country’s national budget (FY2018-19) and a 7.9% share of GDP. Out of this, about US\$ 4 billion³⁹ was funded by the development partners. 62% of public procurement expenditure was processed through e-GP in FY19 which accounts for US\$ 15 billion. The remaining US\$ 9 billion worth of procurement was not processed in e-GP. Most of that procurement was for large value international procurements and consultancy services mainly processed under the development partner funded projects and followed mostly open competitive method. However, the exact amount of international procurement and procurement following non-competitive method could not be identified due to lack of country-wide data.

From FY19 e-GP data, it is observed that procurement packages following the open tendering method and limited tendering method were 44,764 in number (42%) and 57,113 in number (54%), respectively. By value, OTM tenders represented 80% and LTM 19% of the total e-GP procurement packages. It is to be noted that the LTM method is also openly advertised and open to participation for all bidders within a locality. In FY19, average participation in an LTM tender was 33 bidders which makes it highly competitive.

Substantive Gaps and Recommendations:

SI	Substantive Gaps/Red Flags	Risk	Recommendations
1	Small and new bidders require more training on e-GP	S	<ul style="list-style-type: none"> Enhance the existing training program to include provision for more bidders’ training Launch online training module
2	Procurement data analytics is not generally used for policy formulation and procurement performance enhancement	S	<ul style="list-style-type: none"> Prepare strategic plan for procurement data management and analytics Develop necessary data analytics and report generating provisions in e-GP including red flags

Note: Risk Rating – High (H), Substantial (S), Moderate (M), and Low (L)

⁴⁰ Data Sources: World Bank Staff estimates based on recurrent and capital expenditure data of country’s national budget (FY2018-19) and procurement data collected from e-GP

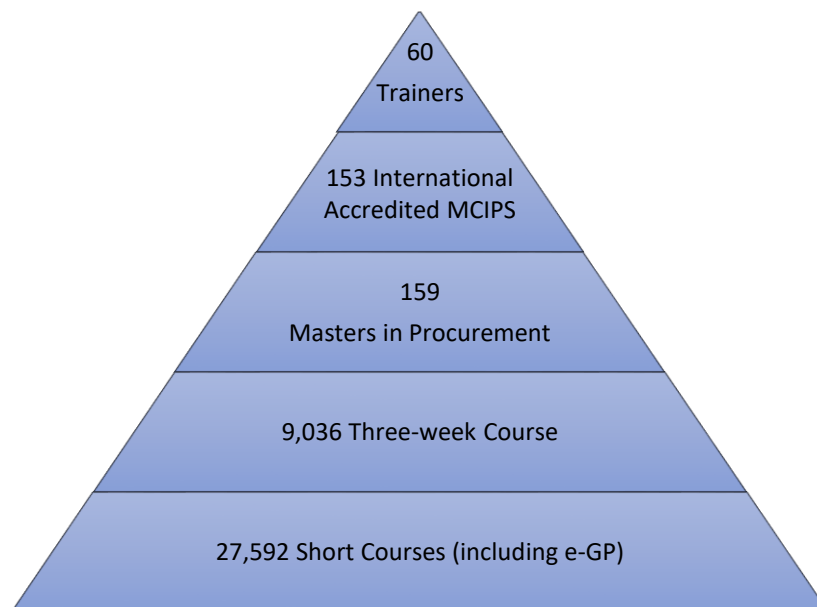
Indicator 8. The public procurement system has a strong capacity to develop and improve

Findings

Sub-indicator 8(a)- Training, advice and assistance: CPTU has been actively engaged in capacity building for over ten years and has in place an extensive and integrated training program to cover a range of capacity needs of different stakeholders. The focus extends beyond procuring entities and includes bidders, auditors, the judiciary, anticorruption officials, policy makers, the media and other actors involved in procurement market. The training program covered both traditional (paper based) and computer-based hands-on training on the e-GP system use.

CPTU has a comprehensive training program with a 3-week modular training course as the core training. The advanced training and academic programs like the Chartered Institute of Procurement & Supply (CIPS) courses and Masters in procurement are offered through a competitive process to the best performers of the 3-week course. ITC-ILO, along with the local training institute Engineering Staff College Bangladesh (ESCB), are mainly responsible for conducting the 3-week and short training courses. They are also responsible for updating the course content based on emerging needs and feedback. CIPS courses are also conducted by local training organizations or universities like BRAC Institute of Governance and Studies (BIGD) and ESCB under the overall supervision of CIPS, UK. CPTU has also developed a pool of 60 national certified trainers to deliver the procurement training. So far, 37,000 people have been trained in procurement as detailed in the following figure and the number is continuously growing under the ongoing program.

Figure 3.11: Number of people trained



Development of a four-tier based competency framework and accreditation board is underway. The competency framework has been drafted, and process is going on to establish the accreditation board. However, the provision of the procurement accreditation board and competency framework needs to be included in the PPA2006/PPR2008. However, it is already included in the draft BPPPA act under the responsibility of the proposed BPPA.

CPTU provides 24/7 help desk services to address questions and problems raised by the PEs, bidders and the public including the media. CPTU has also expanded its help desk services to some big procuring agencies (LGED, RHD, BWDB, BREB etc.). There is an on-line help desk tracking system to post problems by the PE through a website www.helpdesk.cotu.gov.bd. PEs can post their problems with the auto generation of a follow-up ticket number and time stamping. The question may also be posted through mail communication in the e-GP web portal. However, these help desk services are being provided mostly to provide solutions for e-GP users' problems, not for traditional tendering. In the paper based tendering process, frequent questions are addressed by the CPTU officials/consultants and/or by the members of national certified trainers' pool. CPTU posts all queries and its legal responses to the website for public use. In addition, CPTU has formed 32 procurement core groups within the 32 largest procuring organizations of the country covering about 80% of the national procurement budget. Each group consists of seven trained experts on procurement and they act as advisers to their organizations for procurement related matters. It is evident that CPTU's capacity building program is widely known to PEs and bidders. 100% of surveyed bidders gave positive feedback about the capacity building program. However, they have also suggested a need to further improve the responsiveness of the help desk.

Sub-indicator 8(b) - Recognition of procurement as a profession: The public service in Bangladesh does not recognize procurement as a separate profession or cadre. However, some of the large organizations (e.g. power sector organizations) treat procurement as a separate function. Most organizations usually deploy procurement trained officials for conducting procurement related activities. In most of the engineering organizations, procurement is included within the specified job description of the engineers. Organizations evaluate staff performance and generally provide opportunities for professional development including training in public procurement, although such training experiences are seldom considered during promotion.

Cadre officials and non-cadre professional engineers are appointed through competitive examinations. Promotion, however, is not competitive and based rather on seniority and performance rating through annual review. Training, qualifications and professional certifications are not generally weighted in promotion.

Sub-indicator 8(c) - Monitoring performance to improve the system: continuous performance measurement and monitoring is not happening in procurement. Procurement timeliness is monitored in some cases mainly to measure the delay. However, it is not done on a regular basis. All ministries sign an annual performance agreement. Procurement performance, however, is not included in the annual performance agreement of the ministries. Besides, this high-level performance or result agreement is not cascaded downward at the subordinate official level.

There is no systematic use of procurement information in policy making. Procurement responsibilities are clearly defined in PPR 2008.

PPA 2006 and PPR 2008 contain provision for monitoring of procurement activities and CPTU is entrusted with the task. This provision only emphasizes compliance monitoring rather than performance or result based monitoring. PPR 2008 mandates CPTU to prepare and submit to the government an annual report regarding the overall functioning of the public procurement system for the preceding financial year including recommendations for measures to be taken by the government to revise and improve procurement practices and enhance the quality of procurement work. However, this is seldom done. It appears that the procurement policy decisions (e.g., amendments made to the PPA 2006 and the PPR 2008) are not taking advantage of the detailed analyses of procurement and contract management related data and key performance indicators.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	Less recognition of 'procurement' as a professional service	S	Prioritize implementation of 4 tier-based procurement competency and accreditation framework
2	Procurement performance is not generally part of results agreement of the Procuring Entities/Agencies/Ministries and therefore does not contribute in career advancement	S	Include procurement performance as an indicator in the performance agreement for the ministry, agency and procuring entities

3.3 Pillar III - Public Procurement Operations and Market Practices

Public procurement in Bangladesh is now well established but remains mostly compliance based. The legal and regulatory framework is in place, there is an established regulator (CPTU) and a well performing e-GP system which is growing rapidly. Moreover, there is an extensive capacity development program. However, the emphasis has been given mainly on building this system and ensuring compliance with the essential requirements of the framework. There is scope to elevate the current system into a performance or output based system based on strategic vision and value for money consideration.

Overall Strengths:

- Availability of an array of procurement methods including multi-stage procedures (pre-qualification, two stage tendering method) for large and complex procurement.
- 62% procurements of the country by value were processed through e-GP in FY19.
- Procurement lead time (invitation to contract signing) for all tenders decreased by 28% - from 86.7 days (FY12) to 62.2 days (FY19).
- % share of awarded bids within original bid validity period increased to 90%.
- % share of rejected bids decreased from 8% (FY12) to 3% (FY19).
- Private sector is vibrant and competitive.
- Citizen engagement in contract implementation monitoring is happening in 48 sub-districts with positive feedback.

Overall Weaknesses:

- 70% of contracts not completed on time - causing delay, cost overruns.
- Absence of strategic procurement planning and analysis resulting in higher procurement cost and lower procurement performance. (e.g., too many small procurement packages for recurring items).
- Procurement decision approval time for high value contracts (more than US\$ 6 million) is still high and a major source of delay for project implementation
- Limited interaction with bidders: information and dialogue failures

Indicator 9. Public procurement practices achieve stated objectives

Findings

Sub-indicator 9(a) - Planning: Strategic procurement analysis including spend analysis, need analysis and market analysis are not generally practiced. Determination of procurement package size, appropriate method of procurement, qualification criteria and specifications in most cases are not prepared based on market information, capacity of the available supplier or contractor, capacity of the procurer, value and risk of the procurement, consideration for achieving value for money, sustainability criteria etc. This results higher procurement cost and lower procurement and contract management performance and, in some cases, failure of the procurement process due to not having any responsive bidder.

The e-GP system is generating a huge amount of useful data and market information. However, the data are not analysed systematically at the organization level to plan procurement activities. For example, too many small procurement packages were observed for recurring standard goods following the open tendering method. Depending on the market conditions and need of the procurer, these packages could be aggregated to a larger procurement packages with staggered delivery to achieve value for money through economies of scale or could be procured through framework agreements. Either of these approaches has the potential to reduce overall cost and efforts significantly.

Preparation of estimated cost based on the prevailing market price is not happening in most cases resulting excessively high or low estimated cost compared to the market price. This is one of the major reasons of failure of procurement process and re-tendering. Most of the organizations are preparing the estimated costs arbitrarily or based on the official rate schedules. However, the official rate schedules are not regularly updated and often do not properly represent the market price due to inadequate data collection. Developing cost estimation module in e-GP facilitating estimation of cost based on the average unit prices available in the e-GP will facilitate preparation of the market oriented estimated cost. It will also facilitate comparison of the bid price with the prevailing market price.

The requirements of the contracts are generally well defined. Both conformance and performance-based specifications are commonly used. Sustainability criteria are seldom used. However, in those cases when they are used, they fit within a conformance requirement such as requirement of certificates or the addition of economic cost in the bid evaluation for particular aspects like energy efficiency. In addition, standard bidding documents contain contractual provisions requiring adherence to national laws, including those relating to the environment and labour clauses relating to employment, health, safety and welfare as well as those prohibiting exploitative labour such as child labour.

Indicator 9(b) - Selection and contracting: The procurement law makes provision for the two-stage procurement method and single stage procurement method followed by pre-qualification. The two-stage method is rarely used and for very complex turnkey type plants or works where the procurer is not capable of preparing a technical specification in the face of changing technical alternatives and market innovations or where it is not fully aware of the alternative or comprehensive solutions that exist in the market. However, prequalification is used widely for relatively large value (it is not permitted for contracts below US\$4.22 million) goods and works procurements. Pre-qualification evaluation is done based on pass/fail criteria. Competitive dialogue is in use for PPP contracts guided by the PPP Act.

CPTU has already developed 14 standard tender documents (STDs) for goods, 16 for works including STDs for pre-qualification, and 14 Standard documents for consultancy services. There are different document depending on procurement method, size of the procurement, market approach (international/national) and type of contracts etc. All of these documents meet the national legal requirements. These documents are heavily inspired by the MDBs' equivalent documents and provide a balanced distribution of risks and responsibilities between the procurer

and contractor/supplier/consultant and also encourage broad participation. After the introduction of e-GP in 2011, so far 11 e-STDs for goods and works have been customized to feed the requirements of e-GP system (e-STDs). All procurement follows the STD as appropriate in 100% of cases

Procurement methods are generally chosen, documented and justified in accordance with the purpose of and in compliance with the legal framework which clearly sets out the conditions for use of less competitive methods. The most competitive procedure (by default) is used extensively and this is underscored by reliance on the e-GP system which is mostly based on OTM -NCT (70%), although auditors observed that some fragmentation takes place with a preference for the LTM and RFQM over OTM procedures. This appears to be connected with the introduction of price cap in OTM method as discussed under Pillar I.

The procedures for bid submission, receipt and opening are clearly described in the procurement documents and are complied with in 100% of cases. Bidders' representatives generally participate in bid opening sessions in the case of manual (paper-based) tenders. In the case of e-GP, the bid opening process is done online. Pre-bid meetings are also usually organized. In the case of e-GP, this is done through an online collaborative forum provided within the e-GP system. To date, there is no practice of (and no legal base for) having civil society organizations officially monitor tender submission, receipt, opening, or evaluation of bids. However, there is evidence that CPTU has long been working on the idea of introducing some form of civil society/citizen engagement in the procurement process and, for that, a public private stakeholder committee (PPSC) with representatives of bidders, procuring entities, media, contractors' associations and NGOs, headed by the Minister of Planning, was constituted and has been working on the issue.

The legal framework requires confidentiality of the process and this is enhanced by the code of ethics attached to the PPR 2008. Breach of the confidentiality provisions is defined as 'misconduct'. However, in practice there are a few instances of leakage of information during the bid evaluation evidenced by complaints submitted by the bidders with specific information regarding the bid evaluation.

Value for money considerations are in general based on seeking the lowest evaluated tender from a qualified and responsive tenderer. Evaluation criteria rarely use non-price factors or life cycle costing even though the legal provision for such is there. Similarly, the use of sustainability criteria is infrequent except in respect of contractual requirements for steps to be taken to protect the environment and workplace health and safety. In a few cases, environmental certification has been a requirement and the application of non-price factors in evaluation for energy efficiency have been observed.

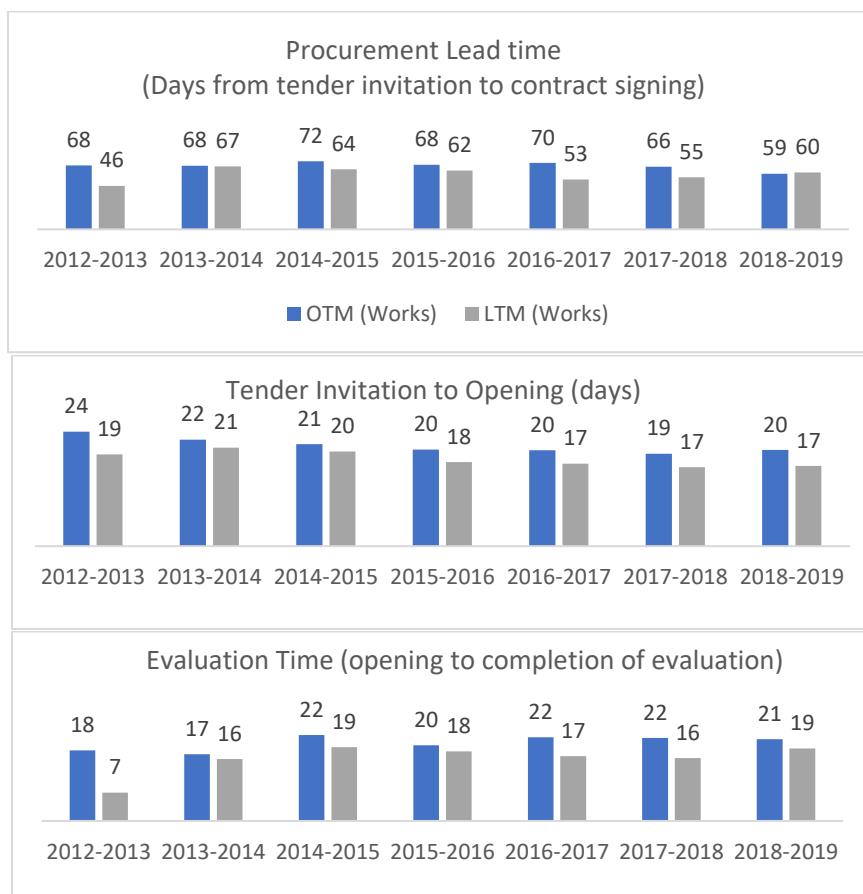
100% of contract award notices are published through the e-GP system following a standard format.

In principle, the STD for large works contracts includes a provision for the application of an incentive bonus for exceeding defined performance levels in terms of completion of civil works

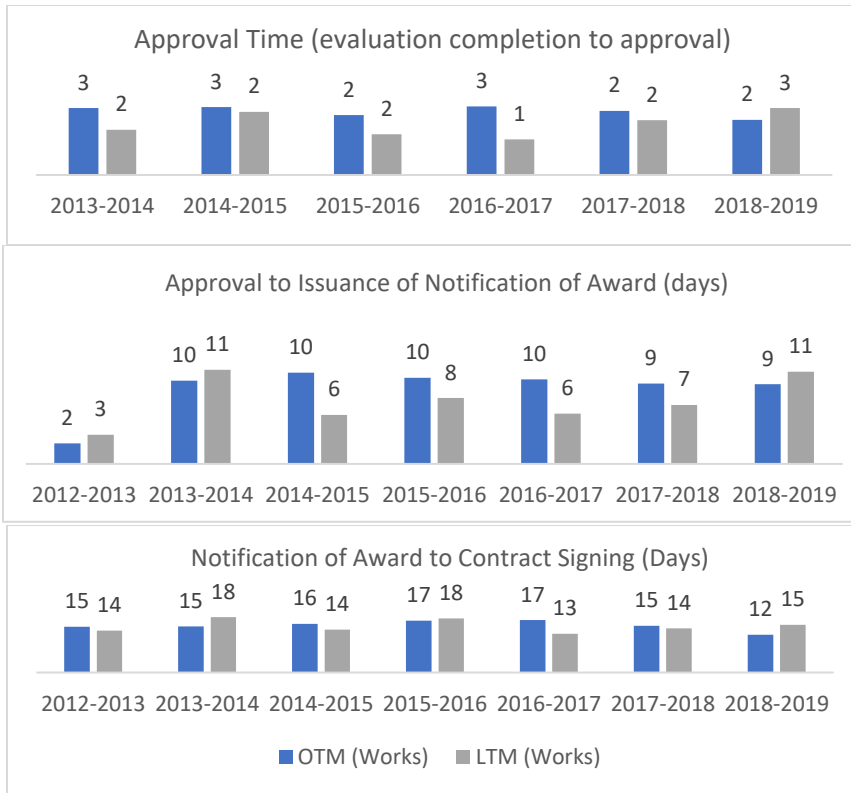
ahead of contract period. However, the provision is optional, and no evidence was found of its use. Moreover, during the assessment interviews, no PE claimed to have applied any bonus mechanism. There are standard provisions for the application of penalties in the form of liquidated damages in the event of delay other than in the event of a *force majeure* event. However, it is rarely used by procuring entities as a mechanism of contract management.

The evidence suggests that selection and award processes are generally carried out effectively, efficiently and in a transparent way, with some exceptions. Average procurement processing time for OTM (NCT) tenders is now 59 days from tender invitation to contract signing.⁴¹ In the case of the LTM method it is 60 days. The lead time for LTM has increased from the previous year mainly due to a substantial increase in procurement packages/volume in FY19 compared to FY18 without increase of manpower in the procuring entities.

Figure 3.12: Procurement time comparisons for OTM and LTM Works procurements

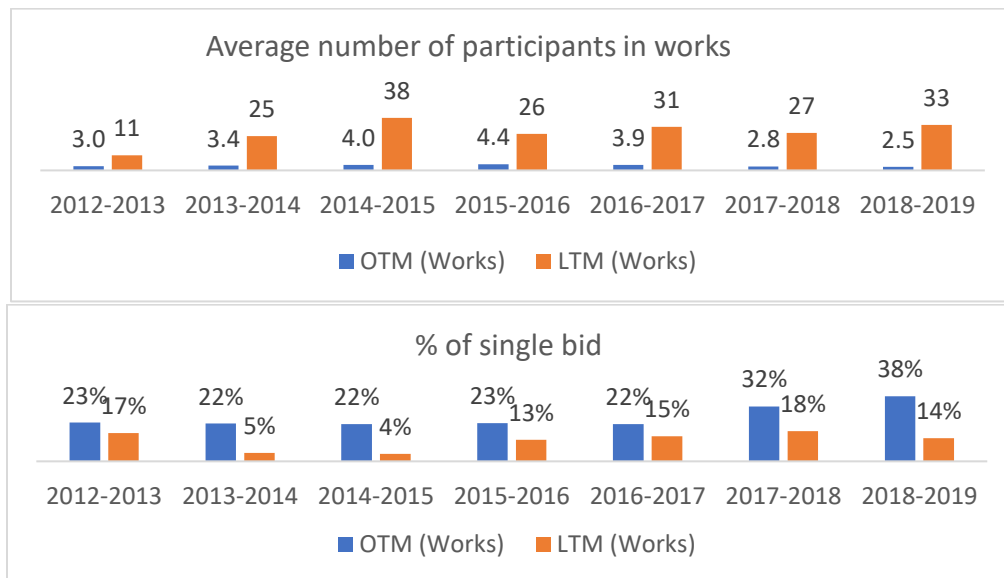


⁴¹ Data Source: all procurement packages (296,700 Nos) in e-GP processed till June 30, 2019. Average lead time calculation includes procurement packages irrespective of the value. Average lead time for high value contracts (>US\$ 12million) is 270 days.



Award decisions within the original bid validity has been increased to 90%. The average number of participants in OTM works contracts has decreased mainly due to the imposition of the price cap for awarding, as explained under the Pillar I. In the case of goods contracts, the average rate of participation is 3.

Figure 3.13: Procurement performance for OTM and LTM Works procurements



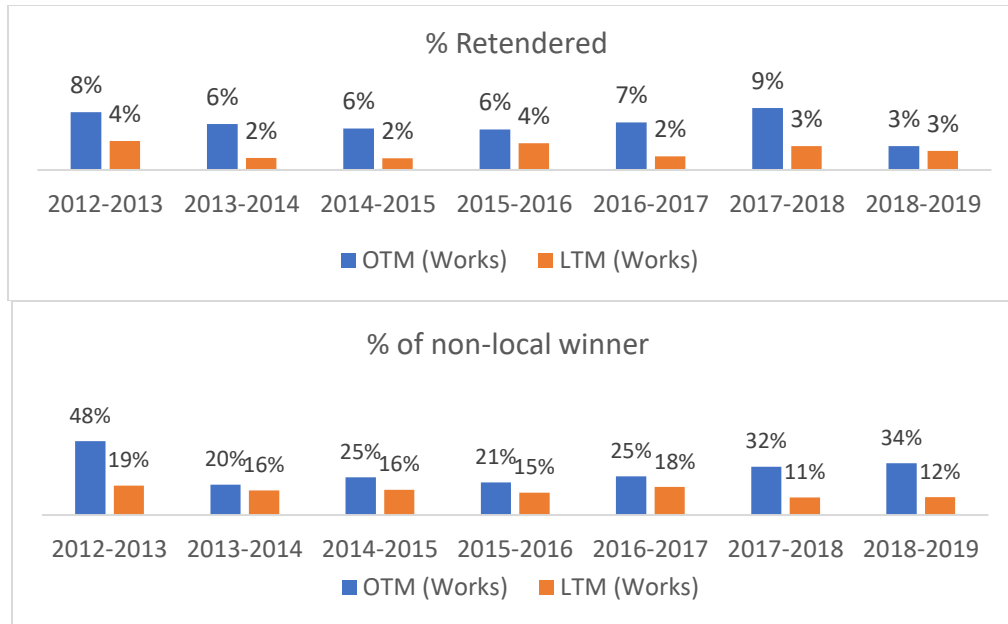
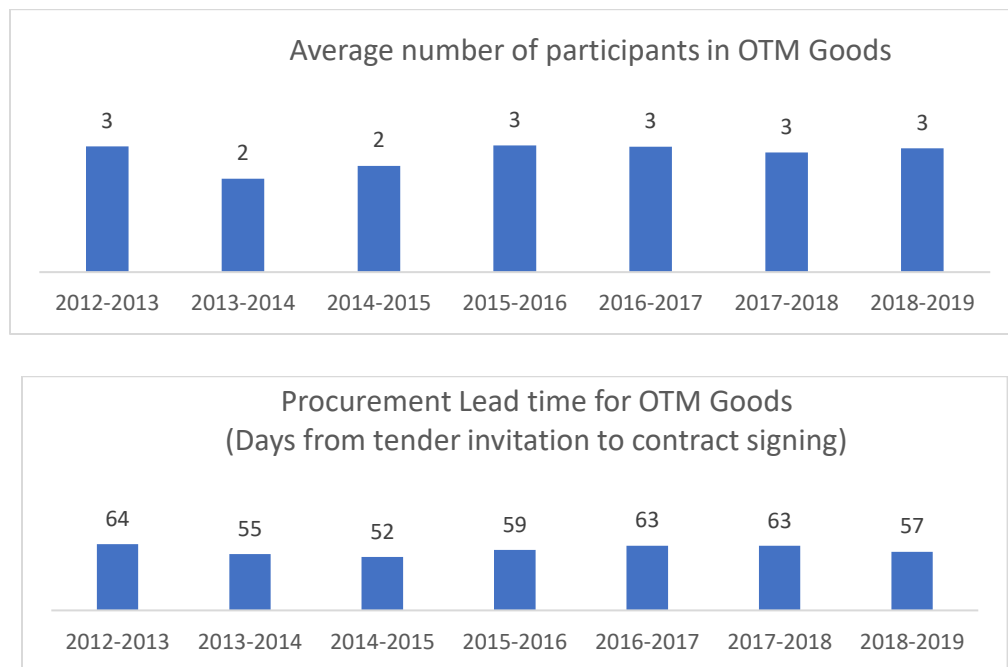
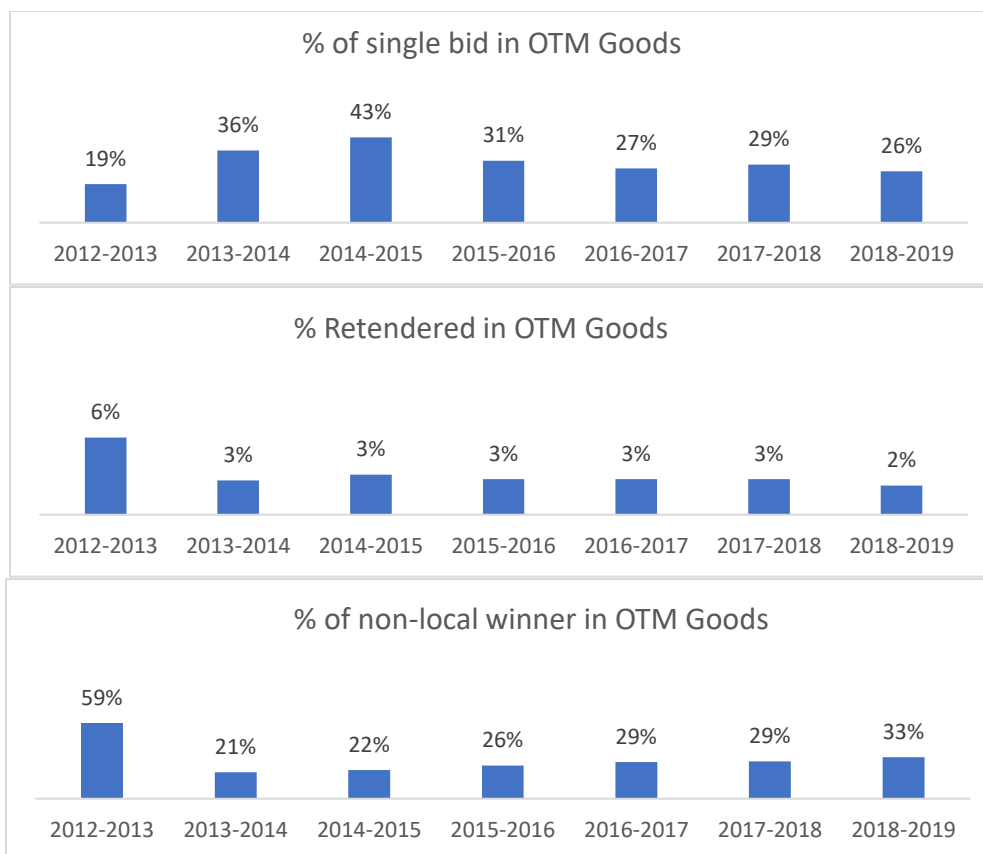


Figure 3.14: Procurement performance for OTM Goods procurements





The following table shows some quantitative indicators on procurement performance:

Table 3.1: Procurement performance data

Indicators	FY19 Data
Average number of bids in OTM (NCT)	3.23
Average number of bids in LTM	29.28
Average number of bids in SSTETTM	2.33
Share (%) of bids processed in full compliance with PPR	100%
Total number of procurement packages/contracts invited	296,700
Number of contracts successfully awarded.	2,43,036
Number of contracts under process	41,358
Number of rejected/cancelled bids	12,306 (4%)
Number of awarded within original bid validity	258,348. (90%)

Source: e-GP data

Indicator 9(c) - Contract management in practice: The country procurement framework provides a broad spectrum of contract management procedures, and contracts are usually governed, managed and implemented based on the contract conditions agreed between the contracting

parties. PEs generally carry out inspection, cost and quality control, supervision for timely implementation of works, process variation requests and final acceptance of products/deliverables. Contract implementation periods depend on the type, complexity and size of the contracts but it is found that 70% of contracts⁴² are not implemented in a timely manner and within the originally stipulated time. Auditors disclosed during the focus group discussions that there are many occasions where extensions were given without the extension of performance guarantees. The average extension period was about 150 days and the average increase was 41% of the originally stipulated time. On the other hand, it was found that in 34% of cases contracts required enhancement of price due to delay. Payments were made in 77% of cases within 30 days of the submission of the bill. According to the focus group discussions, quality of construction work specially at the decentralized level is of a major concern.

Extensions are granted for a number of reasons but are most commonly due to the contracting authorities' failure to hand over the site in a timely manner, right of way issues, delays in agreeing variations and design approval, non-availability of day labourers or construction materials, natural calamities, poor quality of goods, works and services etc. Auditors also pointed out that variation orders are often not carried out diligently or in compliance with the legal requirements. To mitigate this issue, CPTU has already developed an electronic contract management and payment module (e-CMS) of e-GP. The e-CMS is now under pilot implementation by the four largest organizations in the country. From July 2020, it will be rolled out progressively in these four organizations. e-CMS has features like monitoring work programs and milestones of contract, creation of bills, approval of bills, process amendment on contracts including time extensions and variation orders. e-CMS is expected to bring discipline into contract management as the system has built-in check points to monitor slippage of milestones and contract completion dates and prompts for the imposition of liquidated damages (when applicable), not allowing payment beyond contract price if the contract price is not enhanced through a variation order, raises a red flag if payment progress is higher than physical progress etc. However, implementation of e-CMS will require massive training for the procuring agencies, bidding community, accountants and auditors. This needs to be properly planned and resourced so that rolling out of the e-CMS can be progressed at the same pace.

CPTU with the partnership of BRAC Institute of Governance and Development (BIGD) has introduced citizen engagement in contract implementation monitoring in 48 subdistricts of the country. The monitoring is done by citizen committees who received simple training and a checklist to check the quality of the civil works. The committee reports to the local authority and BIGD about any quality issue of the contract. Initial results of this pilot are promising to suggest it has improved the quality of construction. However, a provision for engaging citizens in public procurement monitoring is not yet included in the PPA 2006/PPR2008.

Procurement records have been found to be reasonably complete and accurate and accessible in a single file. Further, the e-GP portal systematically stores all procurement data and documents.

⁴² Contract data collected as part of e-GP IE and World Bank procurement post review

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	70% of contracts not completed on time - causing delay, cost overruns	H	<ul style="list-style-type: none"> • Roll-out newly developed electronic contract management (e-CMS) module of e-GP and monitor contract management performance • Develop a contract management manual • Scale-up citizen monitoring of contract implementation • Undertake capacity development program on contract management and e-CMS including focused training on works contract management
2	Provision for citizen engagement in contract implementation monitoring is not yet included in the procurement laws even though its implemented in 48 sub-districts	M	Include citizen engagement provision in PPA2006/PPR2008
3.	Absence of strategic procurement planning and analysis resulting higher procurement cost, lower procurement performance and failure of tendering process resulting rebidding.	H	<p>Include legal provision for strategic procurement analysis and planning at the organization level based on spend analysis, need analysis and market analysis to determine appropriate procurement size and method of procurement.</p> <p>Include legal provision for mandatory market analysis for high value and complex procurements before initiating the procurement process to better understand the market composition, qualification of the bidders and specifications of the product</p>
4.	Preparation of estimated cost based on the prevailing market price is not happening in most cases resulting excessively high or low estimated cost compared to the market price. This is one of the major reasons of failure of procurement process and re-tendering.	S	Develop cost estimation module in e-GP facilitating estimation of cost based on the average unit prices available in the e-GP

Indicator 10. The public procurement market is fully functional

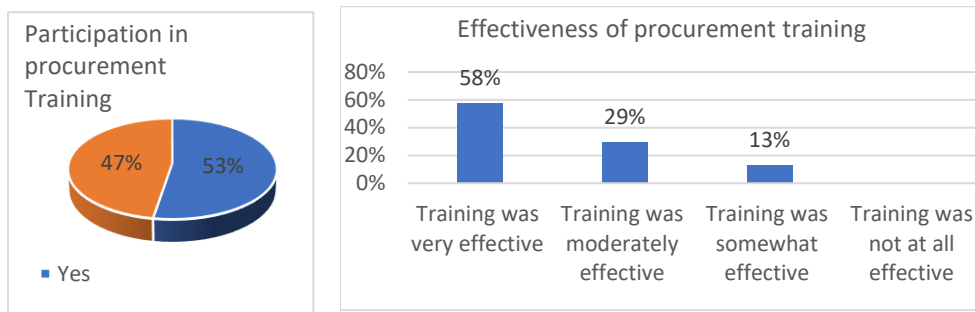
Procurement markets in Bangladesh appear to be robust and competitive for the most part. National and international suppliers, contractors and service providers can freely make their decisions and participate in the procurement process. The procurement legislation, a good number of financial institutions providing financial assistance, e-GP, and aggregate yearly demand of goods, works and services have constituted a good business environment. While all of these are favourable to bidders, at the same time, there is a distinct lack of coordination and dialogue between the public and private sectors for the further improvement of procurement markets, which may well be holding back further development, notably in the case of sustainable procurement.

Findings

Sub-indicator 10(a) - Dialogue and partnerships between public and private sector: CPTU has formed 64 government tenderers' forums in 64 administrative districts of Bangladesh to facilitate dialogue between the public and private sectors. However, most of these forums are not fully functional as they are not used systematically to seek feedback on the provisions of the procurement legislation or any proposed amendment of the PPA or PPR. CPTU has recently formed an ad hoc committee to establish the Bangladesh government tenderers' forum which will be an overarching body of the district level forums to channel feedback. The committee comprises representatives from the public and private sectors and it is now working on the legal provisions, scope of operations and sustainability model of the forum. In addition, there is a public private stakeholder committee (PPSC) with representatives from the bidding communities, procuring entities, media, associations and NGOs. The PPSC is headed by the Minister of Planning and it organizes regular discussion sessions to take feedback on the overall procurement system of the country. In spite of these efforts, the relationship between the public and private sectors is mostly at arms' length. Procuring entities generally organize pre-bid meetings and site visits. There is infrequent open dialogue between the procuring entities and the bidders to share information or receive feedback about the procurement system, process and documents. Therefore, bidders obtain most of the information about the legislation, amendments thereto and tenders from the websites of the CPTU or the procuring entities. CPTU regularly uploads and upgrades all information related to STDs and formats, but there is no further guidance available. About 90% of responding surveyed bidders stated that their companies had no or only a limited opportunity to provide input or make suggestions in the legislative amendment process or any upcoming tender process.

CPTU and large sector organizations are organizing training on e-GP for bidders to enhance their capacity. So far, about 4000 bidders received the training. However, the number is insignificant compared to the 66,000 registered bidders in the e-GP system. On government procurement training, the bidders' assessment results show that 66% of them know that government is carrying out a procurement training program on PPR 2008 and e-GP, but only 47% of them participated. All bidders (100%) expressed that the government training was effective within the range of 'somewhat, effective and very effective'.

Figure 3.15: Participation and effectiveness of bidders' procurement training



Sub-indicator 10(b)- Private sector's organization and access to the public procurement market:

The public procurement market in Bangladesh is relatively large and robust. The private sector is well organized and capable of doing procurement business. Most of the tenders (about 70%) are invited using NCB methods, and the bidders are generally willing to participate in tendering, both individually and in a joint venture. As shown under the indicator 7(b), overall participation in a tendering process increased after the introduction of e-GP. At the end of FY19, about 66,000 bidders were registered in the e-GP system including bidders at the sub-district level. There is no registry in place in the country to account for the total number of tenderer/suppliers available in the country. However, as 70% of public procurement goes through the e-GP system, it can be reasonably assumed that all bidders are now registered in the system except for consulting firms. Consulting firms are not yet registered in the system as e-GP has not yet included modules to process consultancy services.

There are no major systemic constraints inhibiting private sector access to the public procurement market. The legal framework allows for free and open access to all tenders and guarantees equal treatment even for international bidders.

With respect to large and complex contracts, particularly in the case of civil works, local contractors have, over the recent years, grown and developed substantially and the number of bidders reported to have increased because of their requisite qualifications or bidding capacity to participate, sufficient resources of their own or access to credit line to carry out large contracts. However, for exceptionally large contracts, local market capacity does not seem to be adequate and, in such cases, international tenders are required to be invited. Local bidders often participate in such bids as joint venture partners or sub-contractors.

The bidders' survey carried during the assessment included some questions about their perception of the procurement market. On average, 52% of them thought that procurement methods are proportionate to the risk and value and that the rules are simple and flexible, and 75% thought that payment the provisions in contracts are fair. The results indicate that the prevailing legal environment and other conditions of the procurement market are reasonably appropriate. The results of the survey are summarized as follows:

Table 3.2: Bidders' perception towards procurement market

Market conditions	Share of bidders responding that this condition has met
Access to financing for procurement participations	54%
Procurement methods that are proportionate to the risk and value in question, including rules that are simple and flexible	52%
Contracting provisions that help distributing risk fairly (specifically those risks associated with contract performance)	55%
Payment provisions are fair	75%
Mechanism for appeals and dispute resolution is effective	62%
Division of contracts into lots is fair enough for participation	40%

Sub-indicator 10(c)- Key sectors and sector strategies: The government has identified some key sectors which constitute large procurement markets and represent a major share of development expenditure. e.g., energy, transport, health, education, communication. Studies were carried out at different times assessing the procurement risks and opportunities at these sectoral levels involving sector market participants. However, most of the studies/assessments were conducted under development partner funded projects to prepare procurement strategies or to check the feasibility of a project.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	Poor interaction with bidders: information and dialogue failures	S	<p>Prioritize formation of Bangladesh government tenderers' forum to facilitate regular interactions and dialogues with the bidding communities in a systematic way.</p> <p>Regularly hold dialogue with bidders to let them know about the changes in the legal provisions and receive their feedback</p> <p>Carry out regular online bidder surveys and opinion polls on specific topics</p>
2	Sectoral analysis of procurement market, risks and opportunities is not happening regularly	M	Carry out sector analysis and engagement based on e-GP data

3.4 Pillar IV - Accountability, Integrity and Transparency of the Public Procurement System

Pillar IV includes four indicators that are considered necessary for a system to operate with accountability, integrity, transparency and with appropriate controls over the system. It emphasizes the inclusion of essential ingredients in the public procurement system which can be ensured by running a system in accordance with a legal and regulatory framework containing an appropriate set of measures to address the potential corruption in the system. This pillar also covers important aspects of the procurement system like involvement of civil society, as part of the control system. This pillar takes aspects of the procurement system and governance environment to ensure that they are defined and structured to contribute to accountability, integrity and transparency.

Overall Strengths

- Reasonably transparent process is followed in formulation of procurement legislation with consultation with large procuring agencies.
- Adequate access to information in the procurement process.
- Public Financial Management (PFM) system is governed by a set of strong legislative instruments with OCAG as the supreme audit organization.
- Financial auditing carried out regularly which covers procurement.
- Comprehensive procurement audit manual.
- A strong anticorruption system is in place.
- Presence of ethical standard in audits and public procurement (code of ethics) and national integrity strategy.
- CPTU has developed and soft launched a citizen portal to disseminate procurement and contract management data following the Open Contracting Data Standard (OCDS)

Overall Weaknesses:

- Some transparency weaknesses - bidders not widely included in public consultation for legislation change.
- Audit system is mostly external.
 - Internal control system is virtually absent.
 - accumulation of non-resolved observations.
 - Procurement performance audits not yet taking place.
- Procurement complaint system is lengthy and takes 2-3 months' time to exhaust the entire process.
 - No mechanism for keeping review panel members up to date.
 - Complaint tracking mechanism not yet functional for e-GP
- Inadequate monitoring of integrity in public procurement
 - no national statistics available on corrupt activities specific to procurement
 - no recognized role of civil society

Indicator 11. Transparency and civil society engagement strengthen integrity in public procurement

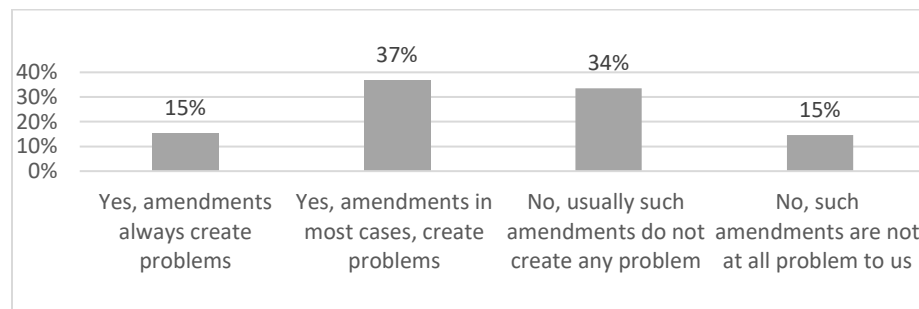
The public procurement system is transparent and open in most cases, there is an in-built mechanism in place for the timely delivery of pertinent contract related information to participants. It does not yet recognise a strong role for civil society in the procurement process. Bidders also is not of the view that civil society's involvement will help in achieving the objectives of public procurement. Civil society is nonetheless a strong critic of the inefficient and ineffective use of public resources.

Findings

Sub-indicator 11(a)- Enabling environment for public consultation and monitoring: A reasonably transparent process is followed in the case of formulating/amending legislation. Legislation is formulated through a consultative process with the main stakeholders' organizations and the public. As a part of the process, a draft is prepared first with the help of experts/lawyers in the field, and then distributed among stakeholders. The draft is discussed in a consultative meeting. The final draft is uploaded and displayed in the website for a certain period inviting comments from interested stakeholders and the general public. Any person, including a member of civil society can provide input, offer comments/observations on the draft for improvement. After a certain period, the final draft is again discussed and revised considering stakeholders' inputs/comments, if the comments/inputs are relevant and add value. However, direct involvement of civil society by inviting comments through the distribution of the draft does not happen.

CPTU generally does not seek bidders' opinions before issuing any amendment to the PPA/PPR or making major changes in the standard bidding documents. Numeric data from the bidders' survey supports this view. Only 9% of surveyed Bidders responded that their views were taken into account in bringing any change to the procurement legislation or any operational documents (for example, STD). As bidders are not consulted during the amendment process and they come to know about the changes only later, at the initial period they face problems in submitting tenders complying with the revised requirements. In 22% of cases did surveyed bidders claim that they did not have enough resources to follow and cope with the changes (both in case of e-GP and the legal system). 52% of surveyed bidders claimed that amendments to the procurement laws often create problem to them.

Figure 3.16: Are changes to the procurement framework difficult to follow by the bidders



62% bidders thought that the involvement of CSOs would not bring a benefit to the procurement outcome. Notwithstanding the adverse views on CSO involvement by the bidders, the government has been trying to entrust civil society members with some responsibility in the procurement process and contract implementation monitoring for achieving better outcomes. With this objective, the government formed a Public Procurement Stakeholders Committee (PPSC) comprised of civil society members including NGOs, academia, media representatives, anti-corruption commission officials, etc. to advise the government in creating a mechanism for the engagement of CSOs. The PPSC members provide inputs, important feedback based on their experience and suggest further opportunities for CSO involvement. In addition, in the amendment process of the country's legislative system, their inputs have been taken into account. CPTU has launched a pilot program of citizen engagement to monitor contract implementation in 48 subdistricts in collaboration with the BRAC Institute of Governance and Development (BIGD). Nevertheless, as of now, no broader program is in place which focuses on civil society, except for provisions relating to some training for CSOs and media personnel.

Sub-indicator 11(b)- Adequate and timely access to information by the public: The legal framework ensures that all stakeholders have adequate and timely access to information, and this is borne out in practice. The legal and regulatory framework is visible on-line and contract opportunities are widely circulated. The e-GP system provides additional transparency and any tender published in the e-GP portal is instantly available in the registered tenderer inbox along with the display of information in the public domain. e-GP also enables the tenderer to download tender documents which permits bidders to assess eligibility, experience and evaluation criteria. Information relating to participating bidders in respect of the suppliers' names, quoted price, omissions, modifications, discounts and substitutions, etc. are disclosed at tender opening. All information is available to the participants and civil society alike. Apart from the CPTU's website, all ministries/divisions and almost all procuring organizations have their own websites and regularly disclose information on procurement opportunities. In the citizens' charters of the procuring entities, the right to information and disclosure of information is also emphasized. Besides, CPTU has recently soft launched a citizen portal to disseminate procurement and contract management data following the Open Contracting Data Standard (OCDS). The portal will be fully launched for the general public by FY20. This portal is connected with the e-GP system including the recently developed electronic contract management and payment module and publishes procurement and contract management data in open data format. It also has features like searching and sorting of procurement data across the country based on all possible variables of procurement and contract management (e.g., agency, procuring entity, location, processing time, type of procurement, competition, whether contracts completed on time and cost, milestones, completion and payment etc.). It also generates corresponding charts to visualize the data. Once fully launched, it will allow citizens to discover activities of interest or activities that are taking place in their locality, including their performance. CPTU is also exploring the possibility of taking citizens' feedback through the portal.

Sub-indicator 11(c)- Direct engagement of civil society: The legal framework does not enable citizens/CSOs to participate in the different phases of a procurement process (planning, proposal/bid opening, evaluation or in contract management). However, CPTU is piloting the

involvement of citizens in contract implementation monitoring in 48 sub-districts with mostly positive results. The Government has expressed its commitment to scale-up this initiative across the country. The PPSC has explored different options of citizen/CSO engagement and concluded that there should be an involvement of a third-party to oversee the contract execution process but not in the tendering process, to avoid delay in procurement process. Individual citizens as well as electronic and print media and CSOs have the right to access to contract information. Civil society members often participate in television debates and publish reports on public procurement transparency and corruption issues, environmental issues, overwhelming delay and cost variations in contracts/projects, quality contracts etc.

Substantive Gaps and Recommendations:

SI	Substantive Gaps/Red Flags	Risk	Recommendations
1	Bidders are not widely included in public consultation for legislation changes	S	Use government tenderers' forums for wide consultation during amendment of procurement laws/guidelines
2	Meaningful procurement and contract management data are not easily accessible to the general citizen	M	Launch citizen portal to share procurement and contract implementation data with the citizens following OCDS including facilities for data analytics based on key performance indicators.
3	Provision of citizen engagement in contract implementation monitoring is not yet included in the procurement laws even though its implemented in 48 sub-districts	M	Include citizen engagement provision in PPA2006/PPR2008

Indicator 12. The country has effective control and audit systems

Bangladesh does not have a comprehensive system of internal control despite a few isolated examples. External control by way of audit is well established, and the framework and systems for carrying out audit are robust.

Sub-indicator 12(a)- Legal framework, organization and procedures of the control system: The country has established a comprehensive legal framework for its financial management system. The legal coverage extends to budgeting, fund flow, accounting and reporting, and detailed auditing systems. The Comptroller and Auditor General (CAG) has the responsibility for maintaining the accounts of the republic and audits all receipts and expenditure of the government, including those bodies and authorities substantially financed by the government. The office of the CAG is the supreme audit institute and works as an independent

organization. It looks into matters relating to the government treasury and accounting principles/procedures. The CAG's responsibilities include, (i) pre-scrutiny of all government payments, (ii) compilation and consolidation of government accounts, (iii) accounting for all external loans and grants. The reports of the CAG are discussed by the Public Accounts Committee (PAC) of the Parliament.

Control functions of the CAG office are both internal and external. The CAG office discharges its audit responsibilities through two "wings": (i) The Pre-audit wing which essentially examines vendor bills before payment is made. Pre-audit is mainly a process and document check and review of compliance with rules, etc., based on a pre-prepared check-list. Pre-audit needs to be completed within 3 days of receipt of the invoice. Where the documents are many and extensive, more time is required. (ii) The Post audit wing deals with the bills after payment is over. Post audit is carried out by 10 audit directorates each headed by a Director General. There are 49 Chief Accounts Officer (CAO) offices with their field offices at district and subdistrict levels.

The country's auditing framework is reliant on external audit. The concept of internal audit or internal control system is new in the country. There are some instances of internal control (for example, health, education, and public works) but they seem to be weak as evidenced by the accumulation of a large number of negative audit observations each year.⁴³ The capacity of such internal audit units and their expertise are limited. There is no standard policy or guidelines defining the scope and procedure of conducting internal audit. The lack of internal control also leads to inadequacies in record keeping, errors and unusual transactions or results which could be indicative of fraud, improper or unlawful expenditure, unauthorized operations, waste, inefficiency or lack of probity.

In the case of both pre-audit and post-audit, the procurement process and expenditure are examined in the light of the 'procurement audit manual' prepared by the audit department in compliance with the PPR 2008, Delegation of financial power and general financial rules (GFR). The audits also cover the budget allocation, budget breakdown as against line items, their codes of expenditure, as well as the tender documents, contract clauses, formation of evaluation committee, and other related issues to ensure consistency. The checks are largely formal, and compliance based, although, more recently, the office of the CAG has begun to introduce performance audits, which focus on evaluating economy, efficiency and effectiveness in the management of public resources by government entities.

Audit observations involving considerable financial anomalies are primarily included as 'Advance Paras' (AP) which elicit responses from the audited entities and concerned secretary of the ministry. Depending on the responses, the APs are transformed to 'Draft Paras' (DP). The DPs form part of the audit reports after approval of the CAG. The CAG submits the audit reports to the President. The reports are later discussed by the Public Accounts Committee (PAC) of the Parliament. The PAC's activities involve scrutinizing the important observations made in reports while giving a hearing to the concerned officials against whom the audit objections are

⁴³ PEFA 2016 Report

documented. The outcome of the PAC meetings includes the responses of the ministries and executive agencies along with the recommendations of the committee and is often considered obligatory for the executive departments and usually followed up until the observations are resolved. Most recent audit reports are uploaded and found in the website (www.cagbd.org). Relatively old reports are archived but can also be retrieved. All of these reports are accessible by the public at no cost.

PPR 2008 Rule 46 requires all agencies with yearly aggregated procurement volume of BDT 100 million (US\$ 1.2 million) to conduct procurement post review by independent consultants. The Rule 46 also requires CPTU to conduct post reviews of the past procurement activities of the procuring organizations on a sample basis to monitoring compliance with the PPA 2006. CPTU has conducted a number of procurement post reviews recently. However, the procuring agencies are not regularly conducting the post reviews by independent consultants.

Sub-indicator 12(b)- Co-ordination of controls and audits of public procurement: CAG has taken an initiative to develop an internal control mechanism. However, the progress has been slow, and it cannot be said that Bangladesh has a functioning internal control mechanism. The two types of standard audits carried out in Bangladesh are the compliance audit and the performance audit (first piloted in 1999). There are audit instructions and guidelines including ISSAI guidelines. The CAG has also developed some manuals, including a performance audit manual, financial compliance audit manual, fraud audit manual and revenue audit manual. The public procurement audit manual is prepared and made effective for auditors who audit the procurement process of goods, works and service and consequent contracts. There is also a procurement audit manual uploaded to its website (www.cagbd.org). All of these guidelines/manuals are accessible free of cost.

Many officials and auditors are trained under a five-day procurement training course conducted by FIMA in collaboration with CPTU. But, in all cases, procurement trainers were engaged from the procurement trainers' pool and they do not seem to have enough knowledge of accounts and auditing process. Generally, the auditors, not being conversant with performance requirements of procurement, mostly embark upon compliance audits. The office of the CAG carries out audit annually of each Ministry on a sample basis. The PEFA 2016, observed that audit coverage is incomplete (only 50%) and there is a significant backlog.

There are no statistics on carrying out of specialised audits in comparison to the total number of audits and no indication of the share of procurement audits, in particular. It was learnt that one special procurement audit has been done in the directorate of Bangladesh railway, but at the time of the assessment it had not been finalized.

Sub-indicator 12(c)- Enforcement and follow-up on findings and recommendations: Audit recommendations are reported to be responded to or implemented generally within the stated time frames (although PEFA 2016 suggests that this is far from a consistent picture). There is a system in place to follow up the implementation of audit recommendations and also a system for enforcement. Most of the audit observations are reported to have been settled (PEFA 2016

suggests that this is done with some delay and not without ‘aberrations’). The recommendations are followed up by oversight through the PAC. Normally the timeframe for implementing the recommendations is three years and follow up results are reported to the Parliament by another follow-up document containing detailed implementation status. Here also there is some backlog (PEFA 2016). There is no data available on the share of audit cases resolved at CAG office levels and also at PAC level.

Sub-indicator 12(d)- Qualification and training to conduct procurement audits: There is an established auditors’ training system in the field of procurement and financial management. The CAG operates a training institute, the ‘Financial Management Academy’ (FIMA), which provides 6-month training programs. In addition, CPTU’s procurement training program also contains a module for auditors with a duration of 5 working days. The contents of the training program are focused on the PPR provisions with some practical assignments drawn from the audit reports. The course is designed to orient the auditors on basic procurement. e.g., methods and process, minimum allowable time limits for preparation of tenders under different methods, their thresholds, required amount of bid and performance security, their validity period, forfeiture, provision and process of procurement post review, etc. This informs them of the legal points at different stages of procurement cycle and enhances their understanding of making a linkage with the audit system. But how much this training helps auditors in conducting and preparing high-quality procurement reports has never been evaluated. Secondly, whilst the CAG has developed a detailed manual on procurement audit, there is no record that auditors are oriented on the manual or that their qualifications are assessed before engaging them in delivering the procurement and performance audits. There is no concrete evidence that, as a condition for carrying out any procurement audit, auditors’ knowledge or training and qualifications were considered, or in case of any capacity gap, they were routinely supported by a PFM consultant.

A major share of the managerial staffs has science and humanities background followed by finance/accounting. In the CAG office, there are quite a large number of MBAs. However, the number of managers with professional qualifications such as ICMAAs, CISAs and other professional accounting/auditing qualifications is quite low. However, the CAG has adopted policies and taken steps to address this issue.

Substantive Gaps and Recommendations:

SI	Substantive Gaps/Red Flags	Risk	Recommendations
1	Audit system is mostly external and internal control system is virtually absent including procurement performance audits.	S	Introduce standardized mechanism for internal control with the development of internal audit manual and module for training
2	No system in place to capture and track audit observations and their resolutions electronically	S	Introduce electronic mechanism for capturing audit data and resolution status

SI	Substantive Gaps/Red Flags	Risk	Recommendations
3	Specialized procurement audits are not conducted based on periodic risk assessment.	S	Carry out specialized procurement audits/procurement performance audit especially in large agencies based on periodic risk assessment
4	Auditors have capacity constrain in conducting procurement audits.	S	Scale up procurement training for the auditors with appropriate course content
5	Procuring agencies are not regularly conducting the procurement post reviews by independent consultants as required per PPR 2008 Rule 46.	S	Enforce the requirement of procurement post reviews through enhanced monitoring.

Indicator 13. Procurement appeals mechanisms are effective and efficient

Findings

Sub-indicator 13(a)- Process for challenges and appeals: As explained under sub-indicator 1(h), the complaint handling procedure in Bangladesh has two layers – administrative review and independent quasi-judicial review by the review panel. The first level of review consists of three sub-levels - (i) procuring entity; (ii) head of procuring entity (HOPE); and (iii) Secretary of the concerned ministry. At all level there is a defined time limit to respond and discharge the complaint. The complainant can go to the higher tier if s/he is not satisfied with the response. PPR 2008 specifies an appeal mechanism procedure including timelines. The appeal needs to be submitted to the DG, CPTU with a varying registration fee based on contract value along with a security fee (also based on contract value). DG, CPTU gets a maximum of 5 working days to hand over the unopened complaint to the chairperson of RP. S/he also issues a request to the procuring entity not to proceed with the procurement proceeding unless an RP decision is made or the HOPE certifies that the said procurement is important. RP’s time limit is 12 working days. The complainant cannot proceed to RP until reviews of the three administrative levels are exhausted. Despite the relatively tight deadlines imposed by the legislation, bidders claimed at the focus group discussion that in reality, it takes 2-3 months to reach to the Review Panel.

Fees levied on complainants when lodging complaints to the RP fall into two categories: (i) a ‘registration fee’ which is non-refundable and goes towards covering some of the costs of the procedure; and (ii) a ‘security fee’ which is intended to discourage frivolous complaints and is forfeited only in the event of such frivolous complaints (based on the decision of the RP). This has happened only once since 2005. Both fees are based on the value of the contracts. Registration fees range from US\$120 on contracts valued up to US\$120,000 and US\$300 on contracts valued above US\$1.2 million. The fees appear reasonable considering the context. The security fee is about US600. These also appear reasonable, especially given the rarity of forfeiture.

At PE level, in most cases, PEs remain silent or review the complaint superficially based on evidence but without hearing the aggrieved person. The practice is not, however, consistent at

all levels. In some cases, no decisions are given. It was also reported during the focus group discussion that in a number of cases, complaints were not even entertained, no register of complaints was maintained, and no acknowledgement of receipt was given. At the HOPE or Secretary level, sometimes an order is given to form a committee to investigate the details of the complaint and to report to them. This clearly takes the process outside the stated timeline.

At RP level, complaints are heard from both the parties as they can summon the complainants and the PEs. It appears from the discussions with the review panel members that they render their decisions mainly based on the evidence provided by the parties and provisions of legal framework. Though no data is available on how many decisions have been enforced, discussions with the stakeholders revealed that PEs don't disobey the RP decisions. However, both the bidder and PE can challenge the verdict of RP in the higher courts, if the PE or bidder remained aggrieved. No data was available during the assessment as to how many times review panel decisions have been implemented by the procuring entities and how many have been challenged in the higher courts and what the results were. It appears from statements provided during the assessment, however, that except in a very few cases, the procuring entities usually abide by the 'injunction' (issued by the CPTU on the submission of a complaint) or review panel verdict.

Sub-indicator 13(b)- Independence and capacity of the appeals body: Though not explicitly stated in the PPA 2006 and PPR 2008, the Review Panel members are not involved in procurement transactions or in the process leading to contract award decisions. The RPs are made up of well-known specialists taken from three groups- (i) those specialized in legal matters, (ii) those having relevant technical expertise/experience in procurement and contract management, and (iii) those having previous experience in complaints and disputes settlement. While retired senior government servants are made the chair, legal experts are included from retired district judges. No active public servant is included as a member of RP. Each RP is made up of three members (one from each of the three groups), one of whom is nominated as chairperson. The RP may request CPTU to co-opt a maximum two subject specialist as members on case-by-case basis from the lists of specialists separately maintained by the CPTU. The CPTU provides necessary logistics support to the RP but is prohibited from being involved in the proceedings of any complaint or appeal.

The RP exercise their legal authority to impose remedies. They have the authority to (i) suspend the procurement proceedings, (ii) recommend re-evaluation, (iii) order for financial compensation, and (iv) others as they may deem it fit as per rules. Subject to appeal to the courts, the decision of the RP is final and enforceable. All decisions by the RP were obtained within the legally required timeframe of 12 days. CPTU publishes the decisions of the RP in the website. However, it is not done regularly.

In terms of resources, it became apparent that little is provided in the way of awareness or training to the RP members. There is no systematic means for them to obtain updated information relating to any change to the law or any access to best practice guidance or wider knowledge of procurement. Whilst RP members are experienced in a range of subjects, their

procurement knowledge seems to be widely varied. This may hinder their ability to address the practical issues of procurement that are likely to come before them.

Sub-indicator 13(c)- Decisions of the appeals body: Discussions with bidders/PEs together with a random review of some of the decisions made by the RPs appear to indicate that decisions of RPs, with few exceptions, are usually based on the fact and information provided by the parties concerned. There was no suggestion or suspicion that any of the decisions were biased and or unbalanced. Almost in 90% of cases, bidders/PEs consider that RPs were trustworthy. As mentioned in the previous indicator, the RP members admitted that they are not routinely updated (by the CPTU or through any other mechanism) of amendments to the legal framework (including any circulars issued). All information and documents are provided by the parties. Where, due to lack of knowledge, they cannot immediately interpret any amendments and understand their material impact on the cases before them, they are forced to adjourn the hearing to another date. A number of RP decisions were challenged in the High court and rejected. However, actual statistics are not compiled by CPTU and not available.

Beginning from 2005, up to 2018, RP settled 481 cases. Among these, 212 (44%) cases went in favour of complainant and 269 to PEs (56%). All decisions are published in CPTU website. However, publication is not happening regularly. During the survey, 52% of bidders perceived the appeal system trustworthy.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	Statistics and decisions of the review panel cases are not systematically stored and disclosed.	M	Maintain an online data base for review panel cases including implementation status and decisions. Set a timeline to publish review panel decisions in the CPTU website
2	No mechanism for keeping review panel members up to date	S	Arrange regular learning/discussion sessions on procurement issues for review panel members
3	PEs don't record information about complaint and its resolution systematically. e-GP complaint tracking module is not yet fully functional.	S	Enhance e-GP's complaint handling module with facilities to track complaints and their resolution status
4	Procurement complaint system is lengthy and takes 2-3 months' time to exhaust the entire process	S	Reduce 4-tier complaint handling process to 2-tier process consisting review only at the PE and review panel levels Introduce standstill period for large value/international procurements

Indicator 14. The country has ethics and anti-corruption measures in place

This indicator assesses the nature and scope of anti-corruption provisions in the procurement system and how those are implemented and managed in practice. This indicator also assesses whether the system strengthens openness and balances the interests of stakeholders.

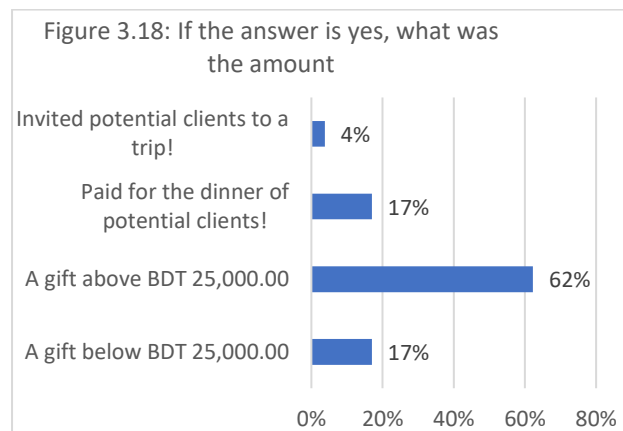
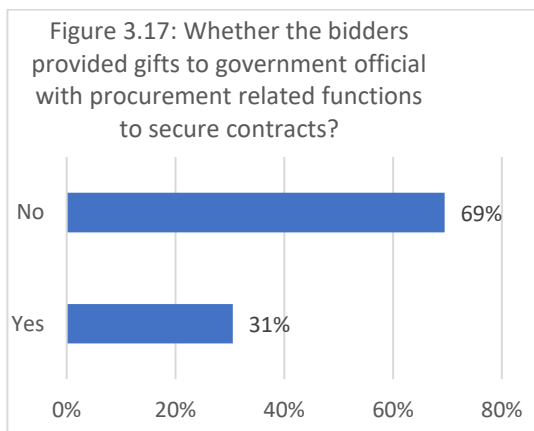
Findings

Sub-indicator 14(a)- Legal definition of prohibited practices, conflicts of interest, and associated responsibilities, accountability and penalties: PPA 2006 and the PPR 2008 comply with international instruments (for example, UNCAC) in procurement processing and prohibit corrupt, fraudulent, collusive, coercive or obstructive practice practices. These provisions are fully defined in the PPR 2008 and in the standard tender documents' instructions to bidders and general conditions of contract. Responsibility for compliance with this provision is clearly assigned and any breach of this provision leads to clearly articulated disciplinary offences in addition, and without prejudice, to liability under other criminal and anti-corruption legislation. Failure to comply with the mandatory code of ethics will also lead to disciplinary and/or criminal action. Conflicts of interest are clearly defined in the PPR 2008 (including a schedule containing examples) and the consequences of a conflict (recusal) are also clearly set out. There are many cases where, contracting firms are debarred because of their involvement in those prohibited cases. All cases are available in the CPTU website. PPR 2008 has made a reference to the country's anticorruption act and penal code provisions in dealing with procurement offences. PE officials are not spared by the country's legislation if allegations are proved. There is no provision for a 'cooling off' period for former public officials.

Indicator 14(b)- Provisions on prohibited practices in procurement documents: The PPR 2008 requires that PE shall ensure inclusion in the STDs of the prohibited provisions, and a tenderer or an applicant must, in the tender/proposal submission form, pledge not to engage in or declare that he/she has not been engaged before, in any corrupt, fraudulent, collusive, coercive or obstructive practices. Such clauses are contained in the tender document and the GCC which are mandatory and enforceable.

Indicator 14(c)- Effective sanctions and enforcement systems: There is no specific requirement in the legislation for procuring entities to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities and thus no procedure is prescribed for doing so. The PPR 2008 contain a debarment procedure where the decision is made by the HOPE based on the recommendations of a committee 'appointed' by the HOPE. The committee examines the basis of 'misdoing' of bidders based on written information presented by the procuring entity and without giving the bidder an opportunity to appear before the committee. It is a discretionary remedy and the extent and effect of debarment is unclear. Debarred bidders are identified in the CPTU's website (www.cptu.gov.bd) but there is no other information available upon which to assess the fairness or consistency of the process. There are no statistics available showing whether the provisions on fraud, corruption and other prohibited practices in the PPA 2006 and PPR 2008 are being enforced in the country by application of stated penalties

and no statistics available on the number of government officials prosecuted for receiving gifts or other favours from the bidders or any third party not directly involved in the procurement. Regarding corruption, nevertheless, bidders' responses were collected during the survey. About 31% of surveyed bidders admitted that they had offered gifts of more than US\$300 to PE officials or other persons for taking the procurement decisions in their favour. The following graphs demonstrate bidders' responses on corruption. 31% admitted that they provided financial or other benefits to government officials to get the contract in their favour (Fig-3.17 and 3.18).



Indicator 14(d)- Anti-corruption framework and integrity training: Bangladesh does have a comprehensive anti-corruption framework which includes at the top, a strong Anti-Corruption Commission (ACC). Established in 2004, the ACC functions as an independent and neutral institution to enact both 'preventative' and 'retributive' policies to fight against corruption. ACC's scope of work is wide, and it can extend its legal hands to both government and non-government organizations to prevent, detect and penalize corruption. ACC has 3,715 corruption preventive committees all over the country down to the lowest local government tier (union parishad). The committees are mandated to increase public awareness against corruption.

The ACC has developed a grievance redress system (GRS) and opened a hot line for receipt of complaints. The organization has wide powers to enquire into alleged corruption, arrest the accused and recommend the suspension of the accused. The ACC has from the beginning prosecuted a number of cases. Statistics on corruption-related legal proceedings are available from the ACC website and its periodicals and compiled annual report of all convictions. These reports are published annually in organization's website (www.acc.org.bd).

The anti-corruption framework does not, however, seem to have a detailed mechanism for the systematic identification of corruption risks, preparation of risk matrix and risk mitigation measures in the context the of procurement cycle. The PPR 2008 contains a checklist to identify non-compliance issues. However, it does not include any corruption risk matrix and mitigation measures. PPR 2008 also has a list of identified unethical conduct. Other than the procurement

audits being carried out every year under CAG, no other special or systematic measures are found to be taken to address the corruption in public procurement.

In the procurement field, the most significant training with country wide coverage is carried out by CPTU. ACC officials and investigators are receiving this procurement training. The course content however does not comprehensively cover integrity or ethical aspects of procurement. No other organizations, nor any large procuring agency, is found to have offered an integrity training to its procurement related personnel.

During the survey, bidders were asked to give their opinion on measures to combat corruption. The survey result is summarized below:

Table 3.3: Bidders’ perception towards ways of combating corruption

Serial	Alternative ways of combating corruption	% share
1	Providing information and/or training on what constitutes corruption and how to reduce corruption (i.e., the right and the duty to be informed and trained	61%
2	Dedicated reporting channels to report misconduct /corruption	50%
3	A code of conduct (ethical guidelines or similar guidance documents) for public and private entities	47%
4	Declaration forms for suppliers to affirm their compliance with anti-corruption rules	28%
5	Intensive supervision from a watchdog organization	36%
6	e-procurement - due diligence or risk analysis	48%
7	Strong enforcement systems	75%
8	Limitations on post-public employment	37%

The bidders assigned the highest preference for ‘strong enforcement of the system’ (75%) followed by information sharing and training (61%). The dedicated reporting channel option to report misconduct and corruption bagged the support of 50% bidders.

Sub-indicator 14(e)- Stakeholder support to strengthen integrity in procurement: There are strong and credible CSO/NGO bodies in the country active in number of areas including public procurement irregularities/corruption. Two notable actors are Transparency International Bangladesh (TIB) which works on overall transparency issues and the Global Partnership for Social Accountability. GPSA with the assistance of Care Bangladesh, has implemented schemes with the aim to strengthen accountability of local governments to deliver services which meet community priorities, supported by an efficient and transparent intergovernmental fiscal system. Bangladesh’s legal framework does not explicitly support the participation of CSOs in public procurement to monitor bid submission, receipt, opening, or evaluation process. There is no such organization recognized as being entitled to exercise social audits and control. Thus, despite the existence of active CSOs and media, there is no documentary or substantial evidence that civil

society organizations are able to contribute in shaping and improving integrity aspects of public procurement. Government is making efforts to develop a model for citizen engagement in the procurement process. The Public Private Stakeholders Committee (PPSC) consisting of CSOs, NGOs, bidding community, media, contractors' associations and public sectors is meeting at regular intervals to discuss public procurement issues including integrity aspects. CPTU in collaboration with BIGD-BRAC has introduced a citizen engagement program in 48 districts to monitor the implementation of civil works. This initiative shows good results and the government is now considering scaling up the initiative.

Suppliers and business associations recognise the integrity and ethical aspects in doing business. However, business ethics does not seem to be a key field in doing business in Bangladesh. Nevertheless, an empirical analysis of 'Business Ethics in Practices and Programs in Bangladesh' concluded in a way that protecting reputation is the main motto for conducting ethical business⁴⁴.

Sub-indicator 14(f)- Secure mechanisms for reporting prohibited practices or unethical behavior: There is secure system for the reporting of cases of fraud, corruption or other prohibited practices or unethical behaviour. In the organizations most vulnerable to corruption, the ACC has put in place secure complaint boxes for complainants who can freely drop their written complaints for ACC. "Whistle-blowers" are protected by legal provisions contained in the 'Whistle-blower's Protection Act 2011' which ensures protection of the person's legal right, where he/she discloses information for the public interest, by concealing his/her identity. Nevertheless, the law is yet to achieve its aim (i.e. does not appear to have been used) possibly due to a lack of publicity and absence of any coordinated campaign to make it effective⁴⁵.

There is a right for the public to obtain information through the Right to Information Act 2009 and Information Disclosure and Publication Regulations 2010. The Regulations define different time limits for the disclosure of different types of information, electronic forms of collecting information and the uploading of such information to the website, etc. There is a defined process and officers are bound to provide the information. However, the follow up system appears to be weak in the organizations.

Sub-indicator 14(g)- Codes of conduct/codes of ethics and financial disclosure rules: There is no national 'Code of Ethics' applicable to all organizations. 'The Government Servant (Conduct) Rules 1984' is followed by all government employees working either for the administration or procurement, or financial management that defines the accountability of government staff for decision making. Recently the Parliament approved an act called 'The Civil Service Act (2018)' which in fact accommodated the clauses mainly to govern civil service officials. Explicitly for public procurement ethical codes, 'The code of ethics for public procurement 2007' is prescribed and issued with the PPR 2008. Comptroller & Auditor General (CAG) has also formulated a 16

⁴⁴ Md. Mahi Uddin¹, Dr. Mohammad Aktaruzzaman Khan² and Dr. Kazi Deen Mohammad, 'Business Ethics Practices and Programs in Bangladesh: An Empirical Analysis'

⁴⁵ Dhaka Tribune, April 24, 2018

page 'Code of Ethics' for auditors. Recently the government has issued a 'National Integrity Strategy' (NIS) for the establishment of ethical standards and honesty. But this NIS is also developed for public servants.

The code of ethics for public procurement was issued within the PPR 2008 and is in force. It contains all necessary provisions including provisions for disciplinary action. This code of ethics is applicable for 100% of public procurement. Contravention of any of its provisions is construed as misconduct by the PPR 2008 and also falls within the jurisdiction of the Government Servants (Discipline and Appeal) Rules, 2018. A government servant if proved guilty of such contravention renders himself/herself liable to disciplinary and criminal action and s/he is subject to prosecution under the provisions of the Bangladesh Penal Code.

Conduct rules are included in the training modules of foundation training and departmental training for all entry level officials under different cadres of the Bangladesh civil service including officials involved directly in financial and procurement management. Regular training programs are conducted by different organizations. But the content of the training modules/materials do not seem to have provided ethical issues as a priority concern.

In public procurement files, tender evaluation committees' conflict of interest statements, statements regarding impartiality in evaluation, financial disclosure forms and information on beneficial ownership, etc are systematically maintained. This information is accessible and useable for decision makers to prevent corruption and mitigation of probable risks related to the procurement cycle. The Bangladesh Anti-corruption Commission has developed a system for lodging complaints and corruption related information anonymously. Examining the gravity of the complaint, the organization has investigated alleged corruption and filed cases where appropriate.

Nationwide detailed statistics of corruption cases and number of convictions are not easily available. Nevertheless, statistics of the ACC reveal that, within a period of only 4 months (January-April 2019), a total of 5,383 corruption cases were filed by the ACC of which 2,549 cases were under trial. According to the ACC's disclosed information, 92 cases were settled up to June 2019 and, in 62% of cases, the accused were convicted.⁴⁶ Detailed statistics of corruption cases are available in ACC website. However, corruption related to public procurement is not earmarked.

⁴⁶ Bangladesh Anti-corruption Commission (<http://acc.org.bd/site/files/819446ed-1f1c-4389-baa4-23219924d0f8/-www.acc.org.bd>)

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk	Recommendations
1	Inadequate monitoring of integrity in public procurement	S	Introduce integrity module in e-GP (automatic identification of red flags during tender evaluation) Launch citizen portal to share procurement and contract implementation data with the citizens
2	Procurement training module does not comprehensively cover integrity and ethical aspects of procurement	S	Include comprehensive module on integrity and ethical aspects of procurement including identification of fraud and corruption red flags in the standard procurement training materials of CPTU
3	Detail statistics of corruption cases are available in ACC website. However, corruption related to public procurement is not earmarked in the database.	M	Include provision to earmark corruption related to public procurement in ACC database
4	No recognition in the legal framework about the role of civil society in public procurement	M	Review the possibility of giving specific role to CSOs in public procurement

Note: Risk Rating – High (H), Substantial (S), Moderate (M), and Low (L)

4. CONSOLIDATED RECOMMENDATIONS

Pillar I: Legal, Regulatory and Policy Framework

Sl.	Recommendations	Timing	Required legal changes	Responsibility
1.	Remove \pm 10% cap from Open Tendering Method (NCT) for works	Short-term	PPA/PPR	GoB+CPTU
2.	Undertake following alternative solutions to tackle the issue of abnormally low bids; <ul style="list-style-type: none"> • Incorporate abnormally low bid identification provision based on formula • Increase performance guarantee based on formula • Imposition of milestone based liquidated damage to encourage timely completion of works contracts • Enhance contract management through electronic contract management of e-GP (with geo tagging) • Adopt output and performance-based contracting where feasible 	Medium-term	PPR	CPTU
3.	<ul style="list-style-type: none"> • Remove \pm 5% cap and lottery from Limited Tendering Method • Assess how Limited Tendering Method can be used to give preferential treatment to small and medium sized bidders/enterprises, women-led enterprises and startups • Include definition of small and medium sized bidders/enterprises, women-led enterprises and startups in PPA/PPR and include this in the bidder registration process • Update rules to include provisions for promoting SMEs, women-led enterprises and startups • Introduce provision of annual enlistment for LTM bidders based on qualification/experience • Early release of bid security of the bidders except the top three bidders • Create a supplier database with unique identification of bidders and their beneficial owners. Track performance of the 	Short-term	PPA/PPR	GoB+CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
	suppliers/contractors including specialized groups			
4.	Introduce suppliers/contractors' development program	Medium-term		CPTU
5.	Streamline emergency procurement provision including complete delegation of the procurement responsibility to the implementing agencies (i.e., selection of procurement method, approval of bid evaluation report and contract), engage UN agencies as partners, use of request for quotation methods without any thresholds etc.	Medium-term	PPA/PPR	GoB
6.	Include Quality-Based Selection (QBS) method in the PPA 2006 and PPR2008	Medium-term	PPA/PPR	GoB+CPTU
7.	<ul style="list-style-type: none"> • Introduce independent debarment process and provision of temporary suspension by the HOPE • Prepare detailed guidelines on debarment procedures including protocol for sharing and receiving feedback on fraud and corruption issues from the Anti-Corruption Commission (ACC). 	Medium-term	PPA/PPR	GoB+CPTU
8.	<ul style="list-style-type: none"> • Publish the consolidated PPA 2006 and PPR 2008 documents in English in the CPTU website for international use. • Finalize all standard/model procurement documents, as listed in the PPR 2008. • Finalize Bangla translated versions of the standard documents • Prepare procurement manual for Goods, Works and Services for all methods of procurement. • Develop a contract management manual • Update e-GP user manual and manual on registration process incorporating recent changes. 	Medium-term		CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
9.	<ul style="list-style-type: none"> • Prepare a policy document with detailed implementation road map for sustainable procurement. • Include provision of sustainable procurement in the PPA 2006 and PPR 2008. • Include provision of evaluating bids on the basis of “most advantageous bid” instead of the current “lowest evaluated bid” to facilitate preferential treatment to high quality goods/works including energy efficient/low carbon emitting products, sustainable goods and works. • Update the relevant standard tender documents with provisions of sustainable procurement including maintaining environmental and social safeguard during construction. • Prepare guidance note on sustainable procurement explaining applicability and procedure of using sustainability considerations in procurement 	Long-term	PPA/PPR	GoB+CPTU

Pillar II: Institutional Framework and Management Capacity

Sl.	Recommendations	Timing	Required legal changes	Responsibility
10.	<ul style="list-style-type: none"> • Connect e-GP with iBAS++ to facilitate – (i) real time capturing of budget utilization, procurement commitment and procurement expenditure; (ii) monitoring and tracking of payment • Ensure generation of reports on payment delay (at national/agency/project/PE level) from the iBAS++ system • monitor the regular payment of bill to minimize the gap between submission of bill until the final payment. 	Medium-term		MoF + CPTU
11.	<ul style="list-style-type: none"> • Enhance existing e-GP procurement planning module to upload annual procurement plan 	Short-term	PPR/e-GP Guideline	CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
	covering e-GP and non e-GP procurements with updating functionality <ul style="list-style-type: none"> • Insert provision in the e-GP Guidelines/PPR 2008 to ensure mandatory uploading of all procurement packages in e-GP procurement plan of a PE or project as applicable. 			
12.	Include advance procurement procedure in the procurement legislation	Medium-term	PPR	MoF+CPTU
13.	Include provision in the legislation for mid-term strategic procurement plan	Medium-term	PPA/PPR	CPTU
14.	Reduce the time gap between national budget and availability of the budget at PE level	Medium-term		MoF
15.	<ul style="list-style-type: none"> • Prioritize formation of proposed Bangladesh Public Procurement Authority (BPPA) • Develop in-house institutional and technical capacity of BPPA (with a set of qualified, experienced and adequate number of trained officials) and gradual lessening of dependency on external support 	Short-term Medium-term	BPPA/PPA	GoB+IMED
16.	Publish compilation of interpretations and clarifications provided by CPTU in official gazette	Short-term		CPTU
17.	<ul style="list-style-type: none"> • Increase procurement approval thresholds at the agency and ministry level with enhanced accountability mechanism • Monitor compliance of the detailed procurement timeline given in PPR2008 	Short-term		GoB+MoF IMED/CPTU
18.	<ul style="list-style-type: none"> • Adopt framework agreements at the level of the organization or ministry • Develop e-GP module for framework agreement and electronic catalogues/ e-market place • Develop guideline on using framework agreement 	Medium-term	e-GP Guideline	CPTU
19.	Include provision of electronic catalogue and e-market place in PPR2008/PPA2006	Medium-term	PPA/PPR/ e-GP Guideline	CPTU
20.	<ul style="list-style-type: none"> • Enhance the existing training program to include provision for more bidders' training • Launch online training module 	Medium-term		CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
21.	<ul style="list-style-type: none"> Prepare strategic plan for procurement data management and analytics Develop necessary data analytics and report generating provisions in e-GP including red flags 	Medium-term		CPTU
22.	Prioritize implementation of 4 tier-based procurement competency and certification framework	Medium-term	PPA/PPR	IMED/CPTU
23.	Include procurement performance as an indicator in the performance agreement for the ministry, agency and procuring entities	Long-term		Cabinet Division
24.	Create a centralized procurement body at the central or regional level to procure commonly required items	Long-term		GoB

Pillar III: Procurement Operations and Market Practices

Sl.	Recommendations	Timing	Required legal changes	Responsibility
25.	Roll out newly developed electronic contract management (e-CMS) module of e-GP and monitor contract management performance	Short-term		CPTU+ SPSOs
26.	Scale up citizen monitoring of contract implementation	Long-term		CPTU
27.	Undertake capacity development program on contract management and e-CMS including focused training on works contract management	Short-term		CPTU
28.	Include legal provision for strategic procurement analysis and planning at the organization/sectoral level based on spend analysis, need analysis and market analysis to determine appropriate procurement size and method of procurement.	Medium-term		CPTU
29.	Include legal provision for mandatory market analysis for high value and complex procurements before initiating the procurement process to better understand the market composition, qualification of the bidders and specifications of the product	Medium-term		CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
30.	Prioritize formation of Bangladesh government tenderers' forum to facilitate regular interactions and dialogues with the bidding communities in a systematic way	Medium-term		CPTU
31.	Regularly hold dialogues with bidders to let them know about the changes in the legal provision and receive their feedbacks	Medium-term		CPTU+ SPSOs
32.	Carry out regular online bidder surveys and opinion polls on specific topics	Medium-term		CPTU+ SPSOs
33.	Carry out sector analysis and engagement based on e-GP data	Long-term		CPTU+ IMED

Pillar IV: Accountability, Integrity and Transparency

Sl.	Recommendations	Timing	Required legal changes	Responsibility
34.	Use government tenderers' forums for wide consultation during amendment of procurement laws/guidelines	Medium-term		CPTU
35.	Launch citizen portal to share procurement and contract implementation data with the citizens following OCDS including facilities for data analytics based on key performance indicators.	Short-term		CPTU
36.	Include citizen engagement provision in PPA2006/PPR2008	Medium-term	PPA/PPR	IMED/CPTU
37.	Introduce standardized mechanism for internal control with the development of internal audit manual and module for training	Medium-term		OCAG
38.	Introduce electronic mechanism for capturing audit data and resolution status	Medium-term		OCAG
39.	Carry out specialized procurement audits/ procurement performance audit especially in large agencies based on periodic risk assessment	Long-term		OCAG
40.	Scale-up procurement training for the auditors with appropriate course content	Long-term		OCAG+ CPTU
41.	Enforce the requirement of procurement post reviews through enhanced monitoring	Long-term		CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
42.	<ul style="list-style-type: none"> Maintain an online data base for review panel cases including implementation status and decisions Set a timeline to publish review panel decisions in the CPTU website 	Medium-term	PPR	CPTU
43.	Arrange regular learning/discussion sessions on procurement issues for review panel members	Medium-term		CPTU
44.	Enhance e-GP's complaint handing module with facilities to track complaints and their resolution status	Medium-term		CPTU
45.	Reduce 4-tier complaint handling process to 2-tier process consisting review only at the PE and review panel levels	Medium-term	PPA/PPR	CPTU
46.	Introduce standstill period for large value/international procurements	Long-term	PPA/PPR	CPTU
47.	Introduce integrity module in e-GP (automatic identification of red flags during tender evaluation)	Medium-term		CPTU
48.	Include comprehensive module on integrity and ethical aspects of procurement including identification of fraud and corruption red flags in the standard procurement training materials of CPTU	Medium-term		CPTU
49.	Include provision to earmark corruption related to public procurement in ACC database	Medium-term		ACC
50.	Review the possibility of giving specific role to CSOs in public procurement	Long-term		CPTU

Recommended cross-cutting e-GP enhancements:

Sl.	Recommendations	Timing	Required legal changes	Responsibility
51.	Registration of the tenderer: provide unique identification number to each firm. Include provision of checking at the time of registration/renewal whether same firm has created multiple registrations in e-GP	Short-term		CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
52.	Approving Authority: hardwire the provision of appropriate approving authority in e-GP so that it cannot be forwarded to a higher authority without identifying proper justification and monitor compliance through report generated in e-GP	Medium-term		CPTU
53.	Data Structure: update the data structure related to the tender document and tender submission forms to facilitate use of data in other modules, for example, tender evaluation forms, contract management module etc.	Medium-term		CPTU
54.	Procurement Dashboard: develop/update the dashboard for the procuring entity, project director and head of the agency enabling the user to check at a glance the status of procurement and contract management (including payment) activities under their jurisdiction and also track pending tasks and upcoming events	Medium-term		CPTU
55.	Standard Report: Develop/update standard reporting format/forms for each e-GP user to generate standard procurement, contract management, and payment related reports for the procurement activities under his/her jurisdiction	Medium-term		CPTU
56.	Contractors' Database: under the contractors' database develop provision to generate a report for each firm using its unique identification number. The report will produce among others a list of contracts that the contractor has signed and the corresponding payment information from the e-payment system	Short-term		CPTU
57.	Experience/Performance Certificate: develop/update the contract management module to issue work experience/performance certificate to the contractor/supplier/consultants with a unique identification number	Short-term		CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
58.	Tender Evaluation Forms: update the tender evaluation form with the following features – (i) pull data from the tender document (e.g., qualification criteria); (ii) pull data from the tender forms submitted by the tenders; (ii) pull data from tenderer’s experience certificates using the unique identification numbers of the certificates; (iii) verify data with the contractors’ database; (iv) check the bidders debarment status; and (v) introduce a drop down menu to record the reason of tenderer’s non-responsiveness	Medium-term		CPTU
59.	ICB modules: roll out international competitive bidding module	Medium-term		CPTU
60.	Multiple lots: include provision in e-GP to invite tenders for multiple lots under the same package	Medium-term		CPTU
61.	Debarred Firms: remove the provision of excluding debarred firm from participating in the procurement process in case of development partner funded contracts, i.e., when PW3-D and PG3-D standard tender documents are in use.	Short-term		CPTU
62.	Contract implementation monitoring using geo-tagged images: include the feature of contract implementation monitoring using geo-tagged images in the e-CM. Develop relevant software for smart phone	Medium-term		CPTU
63.	Complaint Handling: update the existing complaint management module to process and track any procurement related complaint and prepare consolidated reports on complaints for the procuring entity, project and agency	Medium-term		CPTU
64.	Framework agreements, electronic catalogues and electronic reverse auctions: develop and roll out e-GP modules for framework agreements, electronic catalogues and electronic reverse auctions	Medium-term		CPTU
65.	e-GP modules for consultancy services: Develop and roll out e-GP modules for consultancy services.	Long-term		CPTU
66.	Linking e-GP and IBAS++: connect e-GP with IBAS++ to facilitate links between budget data, procurement data and payment data	Medium-term		CPTU

Sl.	Recommendations	Timing	Required legal changes	Responsibility
67.	Develop cost estimation module: develop cost estimation module in e-GP facilitating estimation of cost based on the average unit prices available in the e-GP	Long-term		CPTU
68.	Block-chain: enhance security of the e-GP system through block-chain technology	Long-term		CPTU

Note: *Short-term is considered less than a year; medium-term 1 to 3 years; and long-term beyond 3 years*

5. VALIDATION OF THE REPORT

Validation of the Bangladesh public procurement assessment was completed in several stages- (i) at the outset, the core team made up of World Bank staff and procurement experts shared the background of the assessment requirements and set its objectives with the government and agreed upon the scope and coverage; (ii) methodology of the study was shared with the GoB MAPS committee and their feedback were incorporated; (iii) methodology of the study was shared with the development partners active in the country (ADB, IsDB, JICA, EU, USAID, DFID) and their comments were incorporated; (iv) shared the initial findings of the study with CPTU and received feedback; (v) shared the draft assessment with the GoB MAPS committee members and incorporated their feedback; (vi) disseminated the detailed findings of the assessment and recommendations at a national consultation workshop (validation workshop) organized on September 29, 2019 at the Radisson Blu Hotel, Dhaka. The workshop was participated by over 140 representatives from the government, implementing agencies, development partners, academia, civil society organizations, procurement professionals, professional associations, private firms, and other business and bidding communities. Honourable Planning Minister graced the workshop as the chief guest and the workshop was chaired by the Secretary Implementation Monitoring and Evaluation Division (IMED). After the main presentation provided by the assessment team, four break-out sessions were organized dividing the participants into four groups based on the MAPS pillars. Finally, a combined feedback session was organized. Participants provided their feedbacks on the assessment findings and offered solutions to the identified substantial gaps of the procurement system. Participants also unanimously agreed to the MAPS findings and recommended solutions; (vii) all stakeholders feedback were incorporated in the report; (viii) the Bank conducted internal peer reviews and quality assurance checking of the report; and finally (ix) the report was reviewed by the Asian Development Bank (ADB), Global Affairs Canada and European Investment Bank on behalf of the MAPS Technical Advisory Group and updated based on the received comments.

ANNEXES

Volume-II: Indicator-wise Assessment Result

Volume-III: Appendices

Appendix 1: List of Documents Consulted

Appendix 2: List of Stakeholders Consulted

Appendix 3: Private Sector Assessment/Bidder's Questionnaire

Appendix 4: Questionnaire for Focus Group Discussions/Interviews with Public
Procurement Practitioners

Appendix 5: Consolidated Procurement Data

Appendix 6: Report on 'National Consultation (Validation) Workshop on Bangladesh
Public Procurement System Assessment (MAPS)'

Appendix 7: Formation of GoB MAPS Committee

Appendix 8: Concept Note of the study