

Public Procurement System and Legal Framework

Public Procurement System of Bangladesh

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Slide No.2/24

➤ **CPTU Central Procurement Technical Unit**

➤ **PPA 2006 (and subsequent amendments)**

➤ **PPR 2008 (and subsequent amendments)**

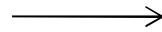
➤ **e-Government Procurement (e-GP)**

- **GoB: e-GP Guidelines 2011**

Goal of Public Procurement

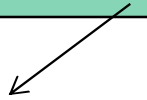
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PEs spend
public funds



Always think of:

- Economy & Efficiency
- Cost-effectiveness
- Accountability



**Provide
Value for Money**



- by attracting maximum competition for the benefit of public interest

Public Procurement Principles

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➤ **Competition**

- **Access to information for all**
- **Clear criteria for qualification and evaluation**
- **Minimum time limits for submission of tenders**

➤ **Transparency**

- **Advertisement**
 - **In newspapers**
 - **On PE's own website**
 - **On CPTU website**

Public Procurement Principles cont'd

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➤ **Equal Treatment**

- Non discrimination
- Integrity of procurement process

➤ **Accountability**

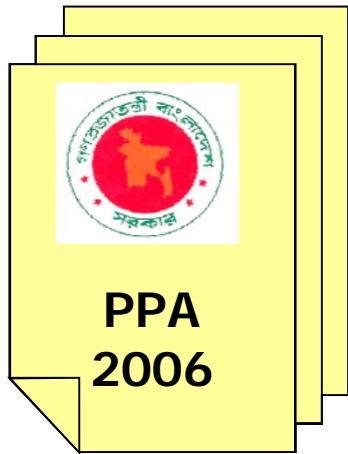
- Complaint mechanism
- Code of Conduct

Overview of PPA 2006 and PPR 2008

PPA 2006 and PPR 2008

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Primary legislation
focuses on main public
procurement issues



Secondary legislation addresses
Public procurement issues in details



PPA passed by the Parliament in year 2006

Scope of Application of PPA 2006

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Act [Section 3 & 4]

- PPA extends to the whole of Bangladesh
- **Overrides other laws:** Notwithstanding anything contained in any other law, the provisions of the PPA shall prevail

Exceptions

- **Unless the Government otherwise decides in the interest of national security or national defence,** public procurement shall be undertaken in accordance with this Act ***[Section 68(2)]***

Scope of Application of PPA 2006 cont'd

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Act [Section 3(2)] - PPA shall apply to:

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

Procurement Methods

- **Open Tendering Method** – preferred method (Section 31):
 - **Goods, Works, Physical Services**
 - **With or without pre-qualification**

National & International Competitive Tendering

PPA: Main Contents

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Procurement related documents (Section12)

- **Standard Documents** (STD, SPD, SRP etc.), Goods, Works, Services, shall be issued by CPTU

Standard Documents are mandatory

PPA: Main Contents

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➤ Invitation for tenders shall be **published**

(Section 40):

- In newspapers
- On PE's own website
- On CPTU website

No information shall be disclosed prior to publishing

➤ Tender documents available (Section 44):

- Sale
- Website

PPA: Main Contents

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- **Public** tender opening (Section 47)
- Evaluation of tenders in compliance with **pre-disclosed criteria** (Section 48)
- **No negotiations** in goods and works except direct procurement as the main rule (Section 49)
- **Mandatory negotiations** in case of consultancy services (Section 60)

PPA: Main Contents

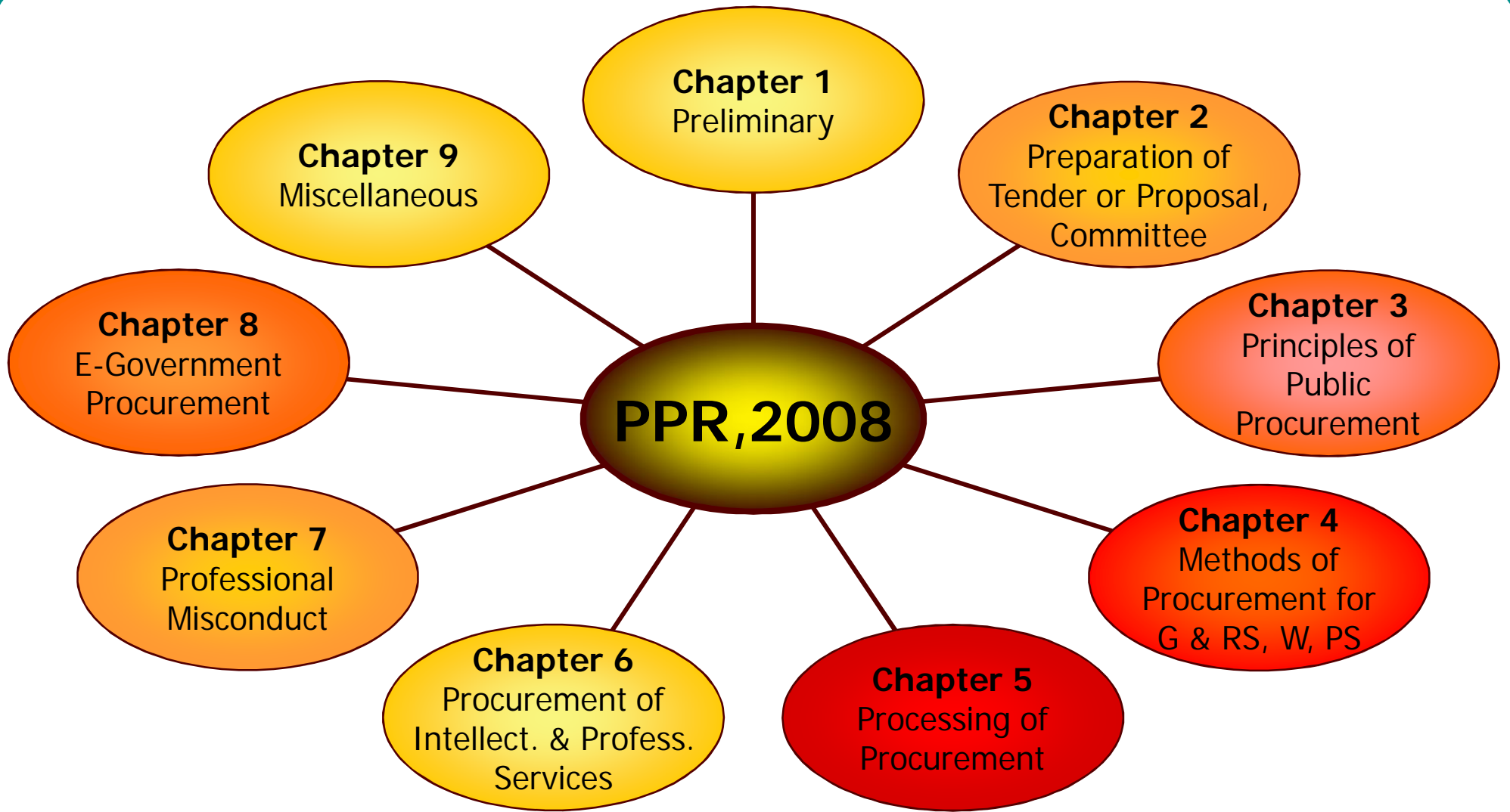
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- **Contract award** (Section 21-23 & 51-53)
 - Approval of successful tenderer
 - Notification of award to successful tenderer - NOA
 - NOA shall be published
 - Signing of contract
 - Notifying un-successful tenderers

- **Records** of procurement shall be maintained

PPR 2008: Chapter wise Contents

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PPR – Some Main Rules

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PE will consider:

- **Tender *validity* period**
- **Tender *security*, validity period**
- **Performance *security*, retention money**

PPR – Some Main Rules

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Tender/Proposal Validity

Rule- 19,20,22 and 23

- Validity Period depends on complexity and time needed for Tender/ Proposal evaluation and approval, and shall be within the limits specified in Schedule II (60 to 120 days)
- Shorter or longer periods are authorised by HOPE or AO to suit the requirements of a particular Procurement
- On justifiable grounds in exceptional circumstances, PE may request Tenderers/Applicants to extend the Tender/Proposal Validity Period
- First Extension by HOPE but Second Extension requires approval of next higher authority
- Tenderers/Applicants may refuse to extend its Tender/Proposal Validity

Tender Validity is linked to Tender Security

PPR – Some Main Rules

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Qualification requirements, eligibility criteria

- **Professional, technical and ethical standards**
- **Ability to implement the contract**
- **Legal capacity**
- **Financial capability and status**

PPR – Some Main Rules

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Evaluation of tenders

- Tenderers may be asked for **clarification**
 - No substantial changes are allowed (such as price, delivery schedule)
 - An apparently non-responsive tender cannot be made responsive
- Tenderers may be asked for detailed **price breakdown**
- Calculating **lowest evaluated price**
- Evaluation proceedings shall be kept **confidential**

PPR – Some Main Rules

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Procurement of **consultancy services** (main procedure)

- Request for Expressions of Interest (**EOI**) advertised
 - Brief description of the assignment
 - Qualification requirements
 - Deadline for submission of EOI
- Opening of EOIs by opening committee (**POC**) not in public
- Evaluation of EOIs by evaluation committee (**PEC**) and preparation of **Short-List**

PPR – Some Main Rules

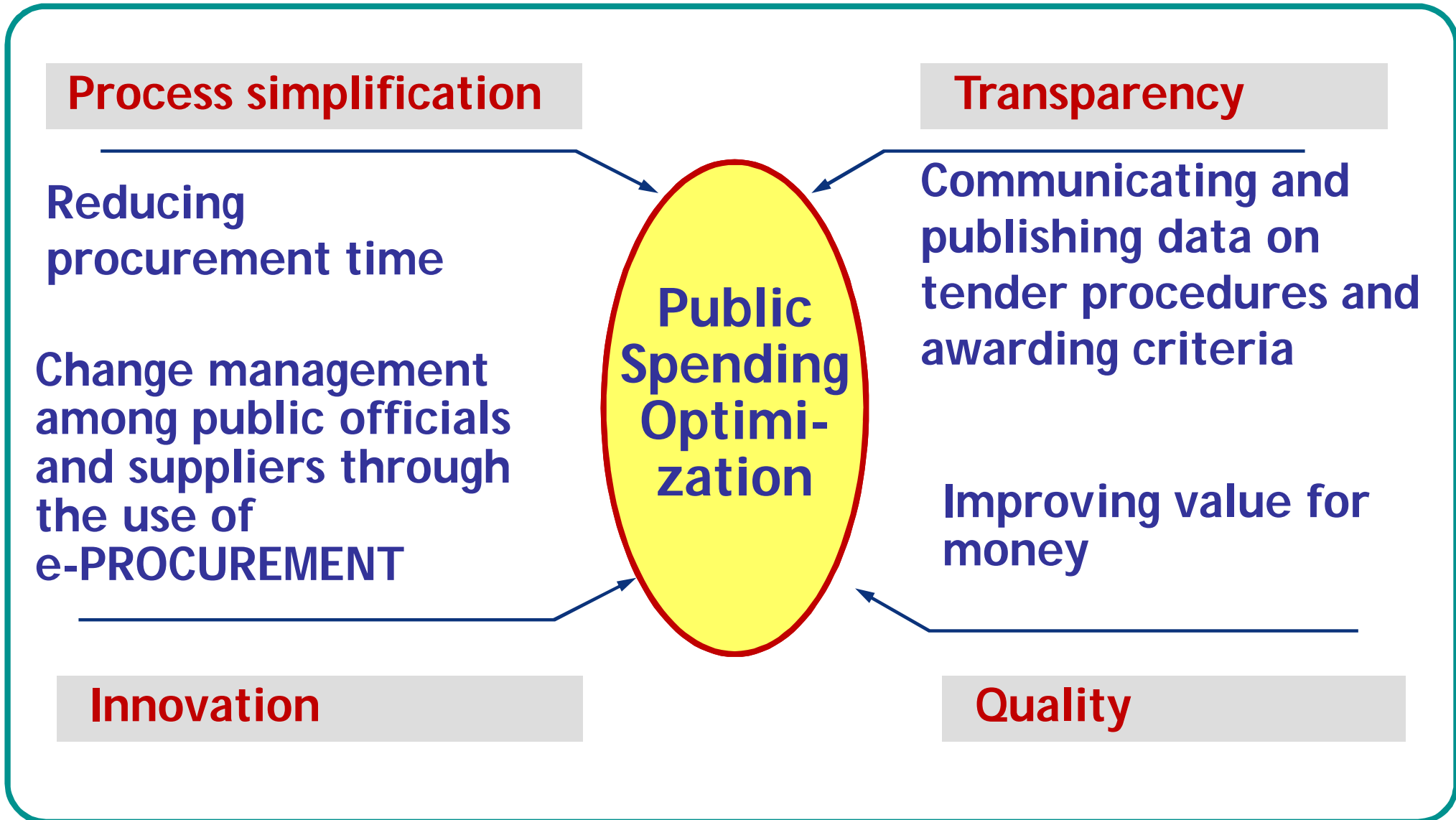
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Procurement of **consultancy services** (main procedure) cont'd

- **Terms of Reference (TOR)**
- **Request for Proposals (RFP) to short-listed applicants**
 - Using STD
 - Containing TOR, contract conditions etc.
- **Technical Proposal and Financial Proposal**
- **Evaluation: Technical Score and Financial Score to be combined (QCBS)**
- **Negotiations to be held with highest scoring consultant**

e-Government Procurement

e-GP: goals



e-Procurement System

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E-GP System Access Diagram

