Methods of Public Procurement
### Goods/ Works & Services

#### Differences

**Goods/Works**
- Product based - physical deliverables
- Open competition, can be with Pre-qualification
- Public opening of Tenders
- Price is a major evaluation factor

**Services**
- Knowledge based - intellectual deliverables
- Open followed by short-listing
- Non-Public Opening of technical proposals
- Quality is a prime evaluation factor

#### More follows
Goods/ Works & Services

Differences

Goods/Works

- Detailed Specifications
- Single Envelope (Except OSTETM)
- No negotiations (Except Direct Procurement)
- Tender Documents (TD)
- Tender and Performance Securities

Services

- Terms of Reference
- Two Envelope
- Negotiations mandatory
- Requests for Proposals (RFP)
- No such Securities but indemnification

Short-listing is a particular characteristic
Procurement & Contract Strategy

Procurement Methods

Role & Responsibility of PE

Choosing Procurement Method

National/ International Procurement
**Procuring an Object**

**Investment Process**

- **Initiation**
- **Hand-over & use**

**A Regulator across the river**

Spread-over initiation to hand-over
Key features of strategy

Basic thinking

- Provides basis for the selection of procurement method and contract type for procurement of a particular object
- Proper choice of delivery and payment system reduces conflicts on procurement of the object

Delivery system matters
Establishing Strategy

Right requirements

Strategy Builds on:
- Right Object
- Right Quality
- Right Quantity
- Right Time
- Right Place
- Right Value for Money

Ultimate outputs
Contract is an Agreement

Contract is a promise between parties

**Contract**

Simply expressed as

__________________________

“an agreement, enforceable by law, between a willing buyer and a willing seller”

Under law
Valid **Offers** and **Acceptance** are precedents to formation of a Contract

**Offers & Acceptance** clearly laid out in

**PPA 2006, PPR 2008 and STDs**

In our terms **“Tender”** is the offer and **“NOA”** acceptance
What is Procurement Method?

Procurement Method is the **Procedure** used in converting requirements or requisitions into Purchase Orders or **Contracts**

Established by PPA and elaborated in PPR (as we heard earlier)

🌟 **Ensuring Value for Money** 🌟

Rules- 61,62,69,74 & 103,104
In choosing procurement method, PE must consider capacity of local/national market, volume to be purchased and contract value.

PE decides about item, lot, package.

Choosing Procurement Method is closely related to Procurement Planning.

(more on procurement planning later on ...)
Choosing Principles

PE must know the **Market** - opportunities, technical solutions etc.

- Splitting/Assembling packages
- Applicability of the Procurement methods

...considering the **nature & size** of the procurement, by carefully reviewing the proposed procurement activities & issues
Splitting/ Assembling Procurement Objects

Four key terms

**Item**
A single article or unit in a list with an identified quantity ... 1,2,3 etc

**Lot**
A multiple number of items grouped together; Any number of items can form a lot
Splitting/Assembling Procurement Objects

**Package**

- A multiple number of Lots grouped together
- Usually No package can have more than 5 lots (*Cross discount*)

**Contract**

Agreement through which the Item/ Lot/ Package is purchased
Consider the following **Procurement object** as an example:

**Office equipment** consisting of 36 items, namely 10 PC, 5 Printers, 1 Server, 4 Executive desks, 6 Office desks, 4 Executive chairs and 6 Office chairs.
In planning and choosing methodology:

- PE shall be very cautious in preparing packages, shall not include too many items in one package, in order to ensure that number of potential Suppliers is not reduced.

- Generally, PE shall organize the lot by assembling only those items that are normally supplied by the same range of Suppliers.

- For special supplies (e.g. Health Sector Goods), tenders may be invited on item-by-item basis, in order to encourage participation of manufacturers in the tendering process.

Rule- 15 (4), (5), (6)
Packages “few & large” or “more & small”

Grouping into large Procurement Packages
- Benefits from economies of scale - achievement of economy & efficiency
- Management aspects (PE’s capacity to manage the whole project)
- Risk aspect (where failure of a sub-supplier may unduly affect critical path)
- Benefits from participation of large international Tenderers

Splitting into small Procurement Packages
- Time element (procurement items are needed at different times)
- Business structure (some goods or services are not available from a single source)
- Administrative costs of tendering
Packages “few & large” or “more & small”

What about competition, when preparing packages?

Discuss!
Packages “few & large” or “more & small”

With regard to competition:

- Do large packages improve participation or favour collusion among Tenderers?
- Does grouping items into small lots encourage maximum competition from local suppliers or facilitate Tenderers in ‘sharing the cake’?

Answers to these questions depend on a careful analysis of the underlying market structure.
Remember

- PE shall **not generally split** a Project into components with the intention of avoiding use of competitive procurement methods or the approval of a higher authority.

- The total sum value of packages under a Project determines the threshold value to be applied.

Threshold values relate to Procurement Methods.
Now, we’ll have a closer look at the different procurement methods
**Methods: Goods and Works**

**Distinct Methods**

**Goods & Related Services**
- Works & Physical Services

**Methods:**
- OTM: Open Tendering Method
- LTM: Limited Tendering Method
- DPM: Direct Procurement Method
- RFQM: Request for Quotation Method
- OSTETM: One Stage Two Envelope Tendering Method
- TSTM: Two-Stage Tendering Method

**Open Tendering Method OTM:** Preferred Method
- Competition under transparent and equal terms

**Taking into account the thresholds and conditions**

Compliance with the conditions specified in the Rules

**Rule:** 61, 62
## Methods: Consultancy Services

<table>
<thead>
<tr>
<th>Prior Approval of HOPE or AO</th>
<th>Method</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>QCBS</td>
<td>Quality and Cost Based Selection</td>
<td>Short listed consultants compete on the basis of quality and cost</td>
</tr>
<tr>
<td>FBS</td>
<td>Fixed Budget Selection</td>
<td>Simple and specific nature of services with a fixed budget</td>
</tr>
<tr>
<td>LCS</td>
<td>Least Cost Selection</td>
<td>Standard or routine nature, and where the cost of the service is within the prescribed price limit</td>
</tr>
<tr>
<td>SSS</td>
<td>Single Source Selection</td>
<td>Continuation of on-going or just completed, low value, speedy selection in emergency situation, rare experience/qualification, urgent need (catastrophic event)</td>
</tr>
<tr>
<td>CSOS</td>
<td>Community Service Organization Selection</td>
<td>Overall knowledge of community needs, local issues and community participation are paramount</td>
</tr>
<tr>
<td>ICS</td>
<td>Individual Consultant Selection</td>
<td>Qualified individual expert while no team work is required</td>
</tr>
<tr>
<td>SBCQ</td>
<td>Selection Based on Consultants Qualifications</td>
<td>Very small high quality assignments, preparation &amp; evaluation of competitive proposal is not justified</td>
</tr>
<tr>
<td>DCS</td>
<td>Design Contest Selection</td>
<td>Technical excellence and innovation are of prime considerations</td>
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</tbody>
</table>
Processes and proceedings to be followed in performing the Procurement Methods are illustrated in Flow-Charts in Schedule III, part B-F.

Time-line, Key activity, Approving Authority are indicated in the Flow-Charts.

Rule- 61, 62
OTM : Key Aspects

Rule-61

- Invite Eligible Tenderers through public advertisement
- Sell Tender Documents
- Make them available on web-site
- Allow minimum time for submission of Tender
- (Urgent National Need: GoB may reduce time)

Open (Competitive) Tendering Method
Open Tendering Method may be performed:

- With or without Pre-qualification (open)
- In case of Pre-qualification held, only Pre-qualified candidates are invited to submit a tender

More on Pre-qualification in next session...
LTM: without Threshold

Rule- 63

1. G&W of specialized nature
   - Available only from a limited number

2. An urgent need for Procurement
   - Competitive tendering impractical

3. Policy of standardization

- Aircraft, locomotives, specialized medical equipment, telecommunication equipments, silos, ports, harbours
- Not foreseeable and because of delay
- Computers, laboratory equipment, research equipment
LTM: with Threshold

From **enlisted Suppliers or Contractors**

- Max. Tk. 25 lakh for Goods and related services and "Stand alone service"
- Max. Tk. 2 Crore for Works and Physical services

If tender price exceeds the specified threshold, Approval of Contract by next higher authority required

Contracts for stand-alone Services may be renewed on annual or term basis, not more than twice.

Rule 63(2)&(3)
Invitation under LTM

Rule- 64

➢ For Goods of a specialized nature invite from the potential Suppliers **directly**

➢ For Procurement under **Rule- 63(2)**, invite Tenders from enlisted Suppliers or Contractors

Parallel adv. in PE’s website, if any, and in brief in the local publications is **recommended**

Method with Limited Competition
Some provisions for LTM with Threshold

**Rule- 63, 64 (below Thresholds)**

- **LTM may be applied:**
  - when time required and costs of going through OTM are high compared to value of contract
  - Estimated contract value shall be stated in Bill of Quantities (Works below threshold)
  - No tender security, no retention money,
  - Yes, performance security
  - In case of procurement under Rule 63(2) Lump-sum Tender document may be used on the basis of Activity Schedule
Direct Procurement Method (DPM)

Rule- 75

Use of DPM is circumstance specific, more in next session...
Direct Procurement Method

Rule- 74

- Procurement from *one source*
- Not competitive & not transparent process
- Could encourage abuse or fraud

- *Never* use for favoring a supplier/contractor or to *discriminate* among suppliers/contractors

HOPE shall strictly control use of DPM
Forms of Direct Procurement

Rule 75

Forms of DPM as mentioned...

- Direct Contracting
- Additional Delivery
- Repeat Order
- Variation Order
- Extra Work Order
Direct Contracting

Rule- 76

- Only one Supplier or Contractor to submit an offer

- Proprietary nature which can be obtained only from the proprietary source

- Critical plant components according to previously established contract condition

- Exclusive dealer or manufacturer which does not have sub-dealers
Direct Contracting

Rule 76

- Only one Supplier or Contractor to submit an offer

- From a Government-owned industry or factory using government own funds

- SSLI for specialized product, specification approved by agencies

- Not interchangeable with existing equipment in case of spare parts
Direct Contracting

Rule- 76

- Emergency Procurement arising from **Natural disasters** within the thresholds
  - Maximum Tk. 50 lakh each case, annual aggregate 5 crore
  - For above Threshold Section-68 of ACT

- Very urgent or essential nature, such as transportation services, event management
  - Maximum Tk. 1 lakh or 5 lakh (HOPE) in each case
Direct Contracting

Rule- 76

- Direct contracting with local communities in projects with poverty alleviation objectives

- Mentioned in the Project Document
- PIC procure small works, material and direct labour
LGI may procure small works, goods and direct labour through PIC, SIC, LCS or other Direct Contracting. Following guidelines issued by the LGD, Contracts for stand-alone Services may be renewed on annual or term basis, not more than twice.
Additional delivery or Repeat Order

Rule- 77

- Additional deliveries of Goods & related Services
- Repeat order of similar nature
- Contract within threshold as in Schedule I I
- Most advantageous after price verification
- Following a competitive procurement process
Rule-78

VO/ EW for Works under the purview of DP

Any increase or decrease in quantities, introduction of new work items

New works, not included in the original contract

Due to change of plans, design

Unknown physical conditions at the site
Financial Threshold

Rule-77 & 78

1. Additional Deliveries of Goods and Repeat Orders
   - 15% of the original Contract price

2. Variation or Extra Work Orders
   - Beyond 15% approved by higher than the Approving Authority who approved the original contract

Exception

Exceptional cases urgently necessary to complete
"Quotation" means the priced offer in writing received from Tenderers/Suppliers for the procurement of readily available standardised Goods, Works or physical Services subject to the financial limitation as prescribed by the Rules.

- unit rate
- lump sum
- cost+fee

Request For Quotation Method (RFQM) Rules [Rule- 69 to 73]
RFQM: Thresholds

- **Revenue (Max⁰)**
  - **G**
    - Tk. 2 lakh (Each case)
    - Annual aggregate Tk. 10 lakh
  - **W**
    - Tk. 5 lakh (Each case)
    - Annual Tk. 20 lakh

- **Development (Max⁰)**
  - **G**
    - Tk. 5 lakh (Each case)
    - Annual Tk. 20 lakh
  - **W**
    - Tk. 10 lakh (Each case)
    - Annual Tk. 40 lakh

- **Rule-69**
  - Readily available Off-the-shelf Goods
  - Low value simple Works and physical Services

More later on
Rule 65

Turnkey Contracts or Contracts for large complex nature of plants

Supply, installation and commissioning of Processing Plants or works of complex nature, Communication Technology

- Not possible to complete technical specifications in advance
- PE lacks the capability to prepare specifications
- Alternative Tech. approaches may not be available within the knowledge of PE

Two-Stage Tendering Method (Competitive)
Applicable for same contracts as TSTM, but **PE is capable** of preparing the complete tender documents, incorporating full specifications, Bill of Quantities, Schedule of Requirements, Designs etc.

One-Stage-Two-Envelope Tendering Method (Competitive)

Only **national** procurement
Direct Cash Purchase (DCP)

Rule- 81

DCP

Low value Goods, urgent and essential Services

Example: Maintenance, repairs, transportation etc

Tk 25,000 (each case)

Annual Aggregate Tk. 5 lakh

Under Approved Budget: Rule-74(3)
**Force Account**

**Rule- 82**

May be used for hiring of direct **Labour** for departmental needs

Purchase of Materials, tools and rental of additional equipment required to perform departmental work: Use other methods (RFQ, Direct Contracting etc.)

*Each case Max. Tk 2 lakh*

**Under Approved Budget: Rule-74(3)**
➢ Some additional Terms and Conditions are required in the Tender Documents

➢ Time limits for Preparation and Submission of Tenders are also different

Rules- 83-87
Rule- 83

Terms and conditions:

- **Minimum Time Limit for** submission of Tenders (Schedule II), but
  - sufficient time for the **invitation to reach all potential tenderers**
  - to enable them to **prepare and submit** tenders
- **Specifications based upon** international standards
- **Acceptable tender currencies**
- **Currency** of performance security & the contract price
OTM International (cont’d)

Rule- 83

- Tender Document may allow for a domestic preference
- To Local manufacturers and Contractors with a price advantage over their international competitors
- Max. 15% of the delivered price for Goods
- Max. 7.5% of the contract price for Works
Application of Other Methods

Rule- 83

Other International Method

- Two-Stage
- Request For Quotation
- Limited Tendering
- Direct Procurement
- Specially for Embassies & National Carriers
Following Circumstances arise:

In the case of Procurement of divisible commodities in bulk RFQ Method following the Section 34(2) shall be used

Aspects

food grains, sugar, fertilizer, edible oils, fuel & animal feed & quoted in established commodity markets
Time Limits for Submission: OTM

**Rule- 61**

- **Up to Tk. 2 Crore** → \( \geq 14\) CD
- **above Tk. 2 Crore up to Tk. 5 Crore** → \( \geq 21\) CD
- **Above Tk. 5 Crore** → \( \geq 28\) CD
- **Emergency following Catastrophe** → \( \geq 10\) CD
Rule- 61: Re-Tendering

- Up to Tk. 2 Crore: \( \geq 10 \text{ CD} \)
- Disaster Situation: \( \geq 7 \text{ CD} \)
- All other cases: \( \geq 14 \text{ CD} \)
Time Limits for Submission: LTM

**Rule- 64**

**Aspects**

- All cases
- Urgent need for Procurement
- National disasters
- Re-Tendering

**Time**

- Not less than (14) days
- (7) days 63(b)(c)
- Below 7 days
- Not less 7 days

Except:

- Urgent need for Procurement
- National disasters
- Re-Tendering
Time Limits for Submission: RFQM

Rule- 71

Reasonably Justifiably minimum

Not more than ten (10) days
Time Limits for Submission: OSTETM

As OTM
Time Limits for Submission: TSTM

**Rule- 66& 68**

- **Aspects**
  - Technical Proposal
    - 1st Stage
  - Priced ‘best & final’ Tenders
    - 2nd Stage

- **Time**
  - Min. 42 days
  - Min. 21 days
Rule- 83

Irrespective of value → Not less than (42) days

For re-Tendering → Not less than (28) days